

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/644

<u>Applicant</u>	Charm Fair Limited represented by Prudential Surveyors International Limited
<u>Site</u>	Lots 17 (Part), 20 (Part) and 73 (Part) in D.D. 33 and adjoining Government land, Tsung Tsai Yuen, Tai Po
<u>Site Area</u>	49.9 m ² (about) (including Government Land of about 26.2 m ²)
<u>Lease</u>	Lots 17 and 20: Block Government Lease (demised for agricultural use) Lot 73: agricultural use under New Grant
<u>Plan</u>	Draft Tai Po Outline Zoning Plan (OZP) No. S/TP/27
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Proposed Utility Installation for Private Project (Drainage) System

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for the installation of the proposed drainage system for a permitted residential development within the adjacent “Residential (Group C)” (“R(C)”) zone on Lots 10, 72 and 73 in D.D. 33 (**Plan A-1**). The proposed ‘Utility Installation for Private Project’ within “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The proposed drainage system includes stepped U-channel (63m (length), 0.5m (width), 0.75m (depth)), underground concrete pipe (24m (length), 0.6m (width), 1.35m (depth)) and four catchpits (1m (length), 1m (width), 1.35m (depth) for each from the applicant’s house passing through the Site to connect with the existing drainage system (**Plan A-2**).
- 1.3 In support of the application, the applicant has submitted application form with attachments (**Appendix I**) and a planning statement (**Appendix Ia**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement at **Appendix Ia**. They are summarized as follows:

- (a) there is no public drainage near the applicant's house on Lots 10, 72 and 73 in D.D. 33 and provision of a proper drainage system for the house is required. The slope remedial works and drainage plan within the "GB" zone have been approved by the Buildings Department;
- (b) the Site is not located within environmental sensitive areas. The proposed drainage system is small in scale and its construction by light hand-held machines and excavation by mini-excavator will have no impact on the nearby environment;
- (c) the landscape and visual impacts during construction period will be localized and transient. The ground surface of the underground section will be reinstated to its original conditions upon completion of works. It is expected that the impact on the environment in terms of landscape and visual appearance are insignificant;
- (d) the establishment of the proposed drainage system could improve the rainwater discharge condition of the nearby area; and
- (e) the routing of the proposed drainage system has been carefully designed and no existing trees will be affected.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the private lots. Detailed information would be deposited at the meeting for Members' inspection. As for the government land, the "owner's consent/notification" requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable to the application.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for 'Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance' (TPB PG-No. 10) are relevant to this application. The relevant assessment criteria are summarised as follow:.

- (a) There is a general presumption against development in a "GB" zone. In general, the Board will only be prepared to approve application for development in the context of requests to rezone to an appropriate use.
- (b) An application for new development in a "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding area.
- (c) The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.

- (d) The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- (e) The proposed development should not adversely affect slope stability.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Application**

There is no similar application for 'Utility Installation for Private Project' within the same "GB" zone in the vicinity of the Site.

7. **The Site and its Surrounding Areas** (Plans A-1, A-2, photos on Plans A-3 and A-4a to A-4c)

7.1 The Site is:

- (a) partly on an existing local track and partly on a vegetated slope;
- (b) located to the south of a "R(C)" zone¹ with a proposed house under construction; and
- (c) accessible via a local track leading from Tai Po Road.

7.2 The surrounding areas are predominantly rural in character covered with dense woodland. To the west and east is Tai Po Kau Nature Reserve. To the south is a platform under private lots owned by the applicant with completed site formation and slope remedial works, construction of retaining walls and associated drainage works to comply with Section 24 Orders issued under the Buildings Ordinance.

8. **Planning Intention**

The planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

9. **Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views on the application and/or public comments received are summarized as follows:

¹ According to the Notes of the OZP, developments within "RC)" zone are subject to a maximum plot ratio of 0.6 and a maximum building height of 4 storeys

Land Administration

9.1.1 Comments of District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) the Site comprises both Government land and private lots. Lots 17 and 20 in D.D. 33 are governed by Block Government Lease (demised for agricultural use) and Lot 73 in D.D. 33 is granted for agricultural use under the New Grant; and
- (b) should the application be approved by the Board, consent from LandsD is required for installation of the proposed utility within the Government land concerned. However, there is no guarantee that such application will be approved by LandsD. If it is approved by LandsD acting in its capacity as landlord at its absolute discretion, it will be subject to such terms and conditions, including but not limited to payment of consent fees as may be imposed.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

as the proposed utility installation will not impose any traffic impact on the nearby road network, he has no in-principle objection to the application from the traffic engineering point of view.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

in view of the small scale and nature of the proposed development, it will unlikely cause major pollution.

Landscape

9.1.4 Comments of Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) the Site is situated in an area of rural landscape character comprising of natural woodlands. Referring to the submitted plans and site inspection dated 11.12.2017, although the applicant claims that “the routing of proposed drainage has carefully designed and no existing trees will be affected”, and that “the ground surface of the underground section will be reinstated to its original conditions upon completion of works”, it is noted that the alignment of the drainage works would pass through areas within 1m of some existing trees. However, no detailed information such as works area, method statement, tree information and exact alignment of the drainage works are provided, and therefore landscape impact to adjacent trees cannot be fully ascertained. In

view of the above, he has reservation on the application from the landscape planning perspective;

- (b) should the Board approve the application, an approval condition on submission and implementation of tree preservation proposal is recommended; and
- (c) advisory comments to the applicant are as follows:
 - (i) the alignment of proposed drainage works, including its work area, should be indicated on Tree Survey Plan to illustrate if there will be works within the tree protection zone, i.e. within the dripline of tree canopy;
 - (ii) options such as cover u-channel along road surface should also be explored, which can also serve as road drains;
 - (iii) the applicant should refer to the below documents on tree protection and preservation promulgated by the Development Bureau (DEVB):

Tree Care during Construction (工程期間的樹木護理)
(http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Tree_Care_during_Construction_e.pdf), and
Guidelines on Tree Preservation during Development (進行發展時保育樹木指引)
(http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Guidelines_on_Tree_Preservation_during_Development_e.pdf).

Drainage

9.1.5 Comments of Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the application from public drainage viewpoint; and
- (b) the applicant should make sure that his proposed drainage could cater for the runoff as collected from the upstream catchments and overland flow from surrounding the Site. Any existing flow path affected should be re-provided. Consideration may be given to include a suitable condition to ensure that the proposed drainage works would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. No adverse drainage impact should be caused to the area due to the proposed drainage works. The applicant is required to maintain such system properly and rectify the system if it is found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the system.

Building Matters

9.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) no objection to the application provided that the proposed drainage works within private lots shall comply with the requirements under the Buildings Ordinance and Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations; and
- (b) the drainage works within Government land are exempted from the provision of the Buildings Ordinance. Therefore, he is not in a position to provide comments.

Nature Conservation

9.1.7 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

noting the scale of the proposed works and that no tree is to be affected, he has no strong view on the application from nature conservation point of view.

Geotechnical

9.1.8 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) no geotechnical comment on the application; and
- (b) the applicant should be reminded to submit the proposed drainage works to the Buildings Department for approval.

9.2 The following Government departments have no objection to/comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department
- (c) Director of Fire Services;
- (d) District Officer/Tai Po, Home Affairs Department; and
- (e) Project Manager/New Territories East, Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 21.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.12.2017, one public comment was received from an individual objecting to the application mainly on the grounds of insufficient information on the trees affected, adverse impact on a stream and setting of undesirable precedent (**Appendix II**).

11. Planning Considerations and Assessments

- 11.1 The current application involves installation of the proposed drainage system to support a permitted private residential development within the adjoining “R(C)” zone and to improve the rainwater discharge condition of the nearby area. Since the residential site is surrounded by the “GB” zone, encroachment of this drainage system onto the “GB” zone is inevitable (**Plans A-1 and A-2**). The main planning concern is whether the scale, design/layout and impacts on natural vegetation/landscape, visual quality, infrastructure and slope stability as set out in TPB PG-No. 10 are acceptable.
- 11.2 The Site is located partly on an existing local track and partly on a vegetated slope. Noting the scale of the proposed works and that no tree is to be affected, DAFC has no strong view on the application from nature conservation point of view. The proposed drainage system which includes stepped U-channel (63m (length), 0.5m (width), 0.75m (depth)), underground concrete pipe (24m (length), 0.6m (width), 1.35m (depth)) and four catchpits (1m (length), 1m (width), 1.35m (depth) for each) (**Drawings A-2 and A-3**), is not incompatible with the surrounding rural environment. Nevertheless, CTP/UD&L of PlanD has reservation on the application due to its possible impact on existing trees. To address his concern, an approval condition on submission and implementation of tree preservation proposal is recommended.
- 11.3 The proposed drainage system is to serve a permitted private residential development within the adjacent “R(C)” zone. In view of the nature, scale and design of the proposed drainage system, it will unlikely cause adverse drainage, environmental, traffic, slope safety and visual impacts on the surrounding areas. Relevant departments consulted including CE/MN of DSD, DEP, C for T, H(GEO) of CEDD have no objection to/adverse comment on the application. Given the above considerations, the proposed development is generally in line with the relevant criteria of the TPB PG-No. 10 as stated in paragraph 4 above.
- 11.4 Regarding the public comment objecting to the application on the grounds of insufficient information on the trees affected, adverse impact on a stream and setting of undesirable precedent, the comments from relevant Government departments and planning assessments as mentioned in above paragraphs are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 12.1.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission and implementation of tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "GB" zoning for the area which is to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission to justify a departure from this planning intention; and
- (b) the applicant fails to demonstrate that the proposed drainage works would have no adverse landscape impact on the surrounding areas.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and attachments
Appendix Ia	Supplementary information dated 13.11.2017
Appendix II	Public comment
Appendix III	Recommended advisory clauses
Drawings A-1 to A-3	Drawings submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan

Plan A-3
Plans A-4a to 4c

Aerial photo
Site photos

**PLANNING DEPARTMENT
JANUARY 2018**