

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/664

<u>Applicant</u>	Mr. Leung Ting Che represented by CHIH Design Ltd.
<u>Site</u>	Lot 2087 in D.D. 6, Pun Chun Yuen Road, Tai Po, N.T.
<u>Site Area</u>	2,280m ² (about)
<u>Lease</u>	Private lot held under New Grant No. 12549 (a) to expire on 30.6.2047 (b) restricted for non-industrial purposes and the development of two buildings of not more than 3 storeys, a height of 8.23m and a total gross floor area (GFA) of 366m ² ; and the maximum roofed-over-area (ROA) of each building shall not exceed 61m ²
<u>Plan</u>	Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Proposed House (Redevelopment)

1. The Proposal

- 1.1 The applicant, owner of the application site (the Site), seeks planning permission to rebuild two existing 3-storey houses into a single 2-storey house with a total GFA of 380m², building height of 7.45m and two parking spaces. The Site comprises a New Grant lot which falls within an area zoned “GB” on the approved Tai Po OZP No. S/TP/28 (**Plan A-1**). According to the Notes of the OZP, ‘House (other than rebuilding of New Territories Exempted House or replacement of existing domestic building by New Territories Exempted House only)’ within the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The floor plans and section plan of the proposed redevelopment are at **Drawings A-1 to A-4**. Part of the open area of the Site will be landscaped and the existing swimming pool will be retained. The Schematic Landscape Master Plan and Schematic Perspective Plan are at **Drawings A-5 and A-6** respectively. According to the applicant, the current application is identical to a previous scheme (Application No. A/TP/548) approved by the Rural and New Town Planning Committee (the Committee) on 4.4.2014. The planning permission of that application, however, lapsed on 5.4.2018.
- 1.3 The Site is the subject of five previous applications (No. A/TP/516, 530, 539, 548 and 661) submitted by the same applicant. Details of these previous applications

are provided in paragraph 5 below. Major development parameters of the existing development, the previously approved scheme (No. A/TP/548) and the current application are as follows:

	Existing Development	Previously Approved Scheme (A/TP/548) (a)	Current Application (A/TP/664) (b)	Difference (b) – (a)
Site Area	2,280m ²	2,280m ²	2,280m ²	No change
Total GFA	398m ² (including 32m ² balcony/ canopy)	380m ² (including 32m ² balcony/ canopy)	380m ² (including 32m ² balcony/ canopy)	No change
Plot Ratio	0.175	0.167	0.167	No change
Site Coverage	5.8%	8.7%	8.7%	No change
Building Height	8.23m	7.45m	7.45m	No change
No. of Storeys	3	2	2	No change
No. of House(s)	2	1	1	No change
No. of Parking Spaces	Nil	2	2	No change

1.4 In support of the application, the applicant has submitted application form with planning statement on 8.4.2019 (**Appendices I and Ia**).

2. Justifications from the Applicant

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

- (a) the application is to pursue an identical proposal which was approved in 2014 under Application No. A/TP/548. Despite the applicant has proceeded to pursue the proposed scheme under Application No. A/TP/548 when the application was approved in 2014, the building plan submissions were rejected by the Building Authority on the right of way issue. The planning permission subsequently lapsed;
- (b) there is no change in the planning circumstances, planning intention for the Site and the surrounding area since 2014;
- (c) the application is simply to reflect changes in the architectural design to cater for a single-family house. The development intensity, site coverage and building height (in terms of number of storeys) are identical to the approved scheme under Application No. A/TP/548. A comparison table of the development parameters provided by the applicant is at **Appendix II**;
- (d) the total GFA of the proposed redevelopment is slightly smaller than that of the existing houses. The proposed redevelopment has no increase in plot ratio;
- (e) as compared to the existing buildings, the revised design for the redevelopment proposal involves a reduction of building height from 8.23m to 7.45m and a

reduction of number of storeys from three to two. The result of the reduction warrants a more compatible building volume with the surroundings, which is dominated by houses of one to two storeys; and

- (f) the reduction in number of storeys results in an increase of site coverage from 5.8% to 8.7%. The increased site coverage at 8.7% is well within acceptable range for a rural low-density residential development.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ are relevant to this application. The relevant criteria include:

- (a) 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 areas. With the exception of New Territories Exempted Houses, a plot ratio up to 0.4 for residential development may be permitted;
- (b) redevelopment of existing residential development will generally be permitted up to the intensity of the existing development; and
- (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.

5. Previous Applications

- 5.1 The Site is the subject of five previous applications (No. A/TP/516, 530, 539, 548 and 661) submitted by the same applicant.
- 5.2 Application No. A/TP/516 for redevelopment into two 3-storey houses with a GFA of 398m² (including 32m² balcony/canopy), a building height of 9m and a site coverage of 5.8% was approved with conditions by the Committee on 4.5.2012 mainly on the grounds that the proposed redevelopment was basically in compliance with TPB-PG No. 10 in which redevelopment of existing residential development would generally be permitted up to the intensity of the existing development. That planning permission lapsed on 5.5.2016.
- 5.3 Application No. A/TP/530 for a 2-storey house with a GFA of 398m², a building height of 8m and a site coverage of 11.8% was rejected by the Board on review on 23.8.2013, mainly on the grounds that the application did not comply with the TPB-PG No. 10 in that the proposed development intensity would exceed that of the

existing development, and that approval of the application would set an undesirable precedent for similar developments within the “GB” zone.

- 5.4 Application No. A/TP/539 for a 3-storey house with a GFA of 398m² (including 32m² balcony/canopy), a building height of 9m and a site coverage of 5.8% same as the previously approved scheme (No. A/TP/516) was approved with conditions by the Committee on 22.11.2013 mainly on the grounds that the proposed redevelopment was basically in compliance with TPB-PG No. 10 in which redevelopment of existing residential development would generally be permitted up to the intensity of the existing development. That planning permission lapsed on 23.11.2017.
- 5.5 Application No. A/TP/548 for a 2-storey house with a GFA of 380m² (including 32m² balcony/canopy) and a building height of 7.45m and a site coverage of 8.7% was approved with conditions by the Committee on 4.4.2014 mainly on the grounds that the proposed redevelopment was basically in compliance with TPB-PG No. 10 in which redevelopment of existing residential development would generally be permitted up to the intensity of the existing development. That planning permission lapsed on 5.4.2018.
- 5.6 Application No. A/TP/661 for a 3-storey house with a GFA of 398m² (including 32m² balcony/canopy), a building height of 9m and a site coverage of 5.8% same as the previously approved scheme (No. A/TP/539) was approved with conditions by the Committee on 18.1.2019 mainly on the grounds that the proposed redevelopment was basically in compliance with TPB-PG No. 10 in which redevelopment of existing residential development would generally be permitted up to the intensity of the existing development.
- 5.7 Details of the above previous applications together with a summary of their development parameters are at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

6. Similar Application

There is no similar application for house redevelopment within the same “GB” zone.

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

7.1 The Site is:

- (a) fenced off and occupied by two existing houses and a swimming pool; and
- (b) accessible via Pun Chun Yuen Road.

7.2 To the east and the north across Pun Chun Yuen Road are village houses and temporary structures among trees and vegetation. To the south is a natural slope with lush trees and shrubs. To the southwest is a private lot (Lot No. 1061 R.P.) owned by the applicant which is used as a landscaped garden. Tai Po Water Treatment Works is about 200m away to the northwest.

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 are summarized as follows:

Land Administration

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

- (a) no objection to the application;
- (b) The subject lot with a site area of 2,280m² was granted by way of land exchange under New Grant No. 12549 dated 9.5.1991 for non-industrial purposes and subject to the following development restrictions:
 - restricted for the development of two buildings of not more than 3 storeys, a height of 8.23m and a total GFA of 366m²;
 - the maximum ROA of each building shall not exceed 61m²;
 - 2 balconies and 1 canopy all projecting from the same side of each building for a distance of not more than 1.22m are excluded from GFA and ROA calculations and can project over the non-building area;
 - no structure other than boundary wall or fence shall be erected on the non-building area;
 - an open-air swimming pool is permitted within the designated area of the lot and excluded from GFA and ROA calculations; and
 - no guarantee of any right-of-way to the lot;
- (c) the proposed 2-storey single family house with a total GFA of 380m², site coverage of 8.7% and encroaching upon the non-building area of the lot is in breach of the lease conditions. If planning approval from the Board is given, the applicant is required to apply for lease modification for implementation of the development proposal. However, there is no guarantee that such application will be approved. If it is approved by LandsD acting in its capacity as the landlord at its absolute discretion, it will be subject to such terms and conditions, including, amongst others, payment of premium and administrative fee, as may be imposed by LandsD;
- (d) he reserves his comments on the detailed design of the proposed house at building plan submission stage; and

- (e) site inspection revealed that boundary walls and fences of the subject lot are erected on the adjoining government land and there is unauthorised occupation of government land. Land control action will be taken according to priority.

Urban Design and Landscape

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

Landscape

- (a) no objection to the application from landscape planning perspective;
- (b) the Site is the subject of five previous planning applications (No. A/TP/516, 530, 539, 548 and 661). The latest applications (No. A/TP/539, 548 and 661) from the same applicant for the same use were approved by the Board on 22.11.2013, 4.4.2014 and 18.1.2019 respectively, to which he had no objection from landscape planning perspective. The current application is submitted to pursue the approved scheme under application No. A/TP/548. In comparison with the approved application No. A/TP/548, there is no change in terms of site area, building height, site coverage, GFA, disposition of building and provision of car parking spaces of the proposed house in the current application. Significant adverse landscape impact due to the proposed house is not anticipated;
- (c) as the Site is located in the midst of “GB” zone mostly surrounded by lush trees and shrubs and the proposed development (with site area of about 2,280 m²), as shown on the schematic landscape plan, is largely hard paved with only minimal greening, it is considered desirable to provide more greening in order to be more compatible with the landscape setting of the “GB” zone. Should the application be approved by the Board, approval conditions on the submission and implementation of landscape proposal are recommended; and

Urban Design

- (d) no adverse comment on the application from urban design and visual perspectives.

Traffic

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

- with reference to the previously approved application No. A/TP/548, it is noted that there is no change in site area, number of storeys/building height, GFA, site coverage, disposition of the building block and provision of car parking spaces of the proposed house in the current application. As the application is only a redevelopment without generating additional traffic, and there is no change in relation to traffic engineering, he has no in-principle objection to the application.

Drainage

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

- (a) no objection in principle to the application from public drainage viewpoint;
- (b) if the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The proposed development is located on the unpaved ground which will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer on the drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. The applicant should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected; and
- (e) there is no public sewer connection available in the vicinity of the proposed development, views and comments from the Director of Environmental Protection should be sought regarding the sewage disposal arrangement of the proposed development.

Water Supply

9.1.5 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application;
- (b) for provision of water supply to the proposed development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of

water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and

- (c) the Site falls within the consultation zone of Tai Po Tau and Tai Po Water Treatment Works, which is a potentially hazardous installation (PHI). The Environmental Protection Department should be consulted in this respect.

Environment

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

- (a) no objection to the application from environmental planning and chlorine risk points of view;
- (b) the Site is outside Water Gathering Ground. In view of the small scale of the redevelopment, the proposed development alone is unlikely to cause major pollution; and
- (c) although the Site falls within the consultation zone of the Tai Po and Tai Po Tau Water Treatment Works and may bring about hazard to life concern due to chlorine storage, transport and usage, increase in population as a result of the redevelopment is not anticipated.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to water supplies for fire fighting and fire service installations being provided to his satisfaction; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority. Furthermore, the emergency vehicular access provision at the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the Buildings Department.

Nature Conservation

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

- the Site is a piece of vacant land with two existing houses. There are two mature trees within the Site, including a *Cinnamomum camphora* (樟樹) at the western corner and a *Ficus microcarpa* (榕樹) at the northern corner. According to the applicant, no tree felling is required. As such, he has no strong view on the application from nature conservation point of view.

Building Matters

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

- (a) no in-principle objection to the application under the Buildings Ordinance (BO); and
- (b) the applicant's attention is drawn to the followings:
 - (i) there is no record of approval by the Building Authority for the structures existing at the Site;
 - (ii) if the existing structures are New Territories Exempted House (NTEH) under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121 or the previous Cap 322), DLO/TP should be in a better position to comment on the application;
 - (iii) before any new building works are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iv) if the existing structures are erected on leased land without approval of the BD (not being an NTEH), they are unauthorized under the BO and should not be designated for any approved use under the application;
 - (v) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
 - (vi) in connection with (iii) above, the Site shall be provided with means of obtaining access thereto from a street and Emergency Vehicular Access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively;
 - (vii) if the site abuts on a specified street of not less than 4.5m wide, its permitted development intensity shall be within the permissible plot ratio and site coverage as stipulated in the First Schedule of B(P)R. Otherwise, its permitted development intensity shall be determined under B(P)R 19(3) at the building plan submission stage;
 - (viii) the sustainable building design requirements and the pre-requisites under PNAP APP-151 & 152 for GFA concessions would be applicable to the redevelopment. In this connection, any non-mandatory or non-essential plant rooms of

the development may be accountable for GFA under the BO subject to their compliance with the above PNAPs;

- (ix) foul water of the development should not be discharged to nearby stream course; and
- (x) formal submission of any proposed new building works for approval and consent under BO is required. Detailed consideration will be made at the building plan submission stage.

Geotechnical

9.1.10 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) it is noted that a number of registered features (Slopes No. 7/NW-A/R55, 7NW-A/F48 and 7NW-A/C76) are located close to the Site. The applicant is reminded to submit necessary geotechnical submission to the relevant authority at a later stage.

9.2 The following government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Electrical and Mechanical Services; and
- (c) District Officer (Tai Po), Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

On 16.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received (**Appendix IV**). The commenter expresses concerns on possible use of the Site as columbarium, vegetation clearance in “GB” zone and “destroy first and build later”.

11. Planning Considerations and Assessments

11.1 The application is for redevelopment of two existing 3-storey houses into a single 2-storey house within the “GB” zone. 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. Although the proposed development is not in line with the planning intention of “GB” zone, according to the TPB-PG No. 10, an application for new development within “GB” zone will only be considered in exceptional circumstances while redevelopment of existing residential development will generally be permitted up to the intensity of the existing development. As the subject site is a New Grant lot with building entitlement and the application is for house redevelopment with a total GFA not exceeding that of the existing houses (i.e. 398m² including 32m² of balconies/canopies), the application may be considered under exceptional circumstances.

- 11.2 The applicant proposes to redevelop the two existing 3-storey houses on site into a 2-storey house with a total GFA of 380m². The proposed development parameters under the current application are identical to the previous scheme under Application No. A/TP/548 which was approved by the Committee in 2014. The proposed redevelopment is considered in compliance with TPB-PG No. 10 in which redevelopment of existing residential development will generally be permitted up to the intensity of the existing development, i.e. a total GFA of 398m² (including 32m² of balconies/canopies) in the instant case. Both DLO/TP of LandsD and CBS/NTW of BD have no in-principle objection to the application.
- 11.3 The surrounding areas are predominantly rural in character with village houses of 3 storeys in height at most and temporary structures. The proposed development with a building height of 7.45m (2 storeys) is not incompatible with the surrounding environment. The proposed site coverage of 8.7% (i.e. a roofed over area of 198.36m²) due to the change of the design of the house by lowering the building height to two storeys is considered comparable with the low-rise low-density single residence residential developments in the rural area. CTP/UD&L of PlanD has no adverse comment on the application from urban design and visual perspectives. Other relevant Government departments consulted, including C for T, DEP, CE/MN of DSD, D of FS and DAFC, have no objection to or adverse comments on the application.
- 11.4 The proposed redevelopment is within a private lot and largely paved. Whilst CTP/UD&L of PlanD has no objection to the application from landscape planning perspective, it is considered desirable to provide more greening in order to be more compatible with the landscape setting of the “GB” zone. To address CTP/UD&L’s concern, a condition on submission and implementation of landscape proposal is recommended in paragraph 12.2(a) below should the application be approved.
- 11.5 Regarding the concerns raised in the public comment, there is no indication that the proposed house redevelopment would be used as a columbarium. As for other aspects, the comments of Government departments and the planning assessments 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 above, 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 31.5.2023, 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 landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;

- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the provision of fire service installations and water supplies for fire fighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

12.3 There is no strong reason to recommend rejection of the application.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 received on 8.4.2019
Appendix Ia	Planning Statement
Appendix II	Table on Comparison of Development Parameters submitted by the Applicant
Appendix III	Previous Applications
Appendix IV	Public Comment
Appendix V	Recommended Advisory Clauses
Drawings A-1 to A-3	Floor Plans
Drawing A-4	Section Plan
Drawing A-5	Schematic Landscape Master Plan
Drawing A-6	Schematic Perspective Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos