

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATIONS NO. A/NE-LT/693 and 694**

<b><u>Applicants</u></b>	Mr. CHEUNG Yiu Kwan Mr. CHEUNG Yiu Yin all represented by Mr. LEE Wai Leung	(Application No. A/NE-LT/693) (Application No. A/NE-LT/694)
<b><u>Sites</u></b>	Lot 892 S.B ss.2 Lot 892 S.B ss.1 (Part) all in D.D. 8, Ma Po Mei Village, Lam Tsuen, Tai Po	(Application No. A/NE-LT/693) (Application No. A/NE-LT/694)
<b><u>Site Areas</u></b>	About 130.3m <sup>2</sup> About 123.0m <sup>2</sup>	(Application No. A/NE-LT/693) (Application No. A/NE-LT/694)
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)	
<b><u>Plan</u></b>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11	
<b><u>Zoning</u></b>	“Agriculture” (“AGR”)	
<b><u>Applications</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House) on each of the application sites	

**1. The Proposals**

1.1 The applicants, indigenous villagers of Tai Om Village<sup>1</sup> as confirmed by the respective Indigenous Inhabitant Representative (IIR), seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of each of the proposed Small House developments are as follows:

Total floor area	:	195.09m <sup>2</sup>
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

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<sup>1</sup> District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicants’ eligibility of Small House grants have yet to be ascertained.

- 1.3 Layout of the proposed Small Houses and the sewerage connection proposals are shown on **Drawings A-1** and **A-2**.
- 1.4 Each of the Sites are the subject of three previous applications for the same use. Except for Applications No. A/NE-LT/294 and 298 which were rejected by the Board on review on 12.12.2003, the other four applications (No. A/NE-LT/432, 433, 582 and 583) submitted by the same applicants of the current applications were approved by the Rural and New Town Planning Committee (the Committee) in 2011 and 2016, but the planning permissions have lapsed. Compared with the last previous applications (No. A/NE-LT/582 and 583), the site areas under the current applications are slightly reduced with the Small House footprints shifted northward correspondingly and development parameters of the proposed Small Houses remain unchanged. Details of the previous applications are given in paragraph 5 below.
- 1.5 In support of the applications, the applicants have submitted the following documents:
- (a) application forms and attachments received on 7.12.2020 (**Appendices Ia and Ib**)
  - (b) further information (FI) received on 11.6.2021 providing drainage proposal to address departmental comments (**Appendix Ic**)  
*(accepted and exempted from publication and recounting requirement)*
- 1.6 On 5.2.2021 and 30.4.2021, the Committee agreed to the applicants' request to defer making a decision on the applications each for two months to allow more time for the applicants to prepare FI in support of the applications. The latest FI was received on 11.6.2021 and the applications are scheduled for consideration by the Committee on 23.7.2021.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications as stated in Part 8 of the application forms and the FI at **Appendices Ia** to **Ic** respectively are summarized as follows:

- (a) the applicants are the indigenous villagers of Tai Om Village. The Sites belong to the applicants' ancestors;
- (b) the Sites fall entirely within the village 'environs' ('VE') of Ma Po Mei but outside the "Village Type Development" zone. However, there are three similar applications approved by the Board;
- (c) the proposed Small Houses are compatible with the rural environment and will not cause adverse visual impacts. No tree felling is required for the proposed developments and no ditches or stream courses are located within 30m of the Sites. The accepted landscape proposals under the previous applications (No.

A/NE-LT/582 and 583) and the proposed sewerage connection proposals are attached with the application forms;

- (d) the applicant has also submitted FI with drainage proposal to demonstrate no adverse drainage impact to the surrounding area; and
- (e) the Sites were the subject of two previous applications (No. A/NE-LT/582 and 583) approved by the Committee in 2016. However, the surveyor appointed by the applicants made mistakes on the lot boundary and has spent a long time with Lands Department (LandsD) to resolve the issue. The applicants apologize for forgetting to apply for extension of time for commencement of the approved Small Houses and the planning permissions lapsed in 2020.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. On 23.8.2002, criterion (i) which requires that the application site, if located within the water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

### **5. Previous Applications**

- 5.1 Each of the Sites are the subject of three previous applications for proposed Small House developments. As shown on **Plan A-2a**, Application No. A/NE-LT/693 is the subject of previous applications No. A/NE-LT/298, 433 and 583, whilst Application No. A/NE-LT/694 is the subject of previous applications No. A/NE-LT/294, 432 and 582.
- 5.2 Applications No. A/NE-LT/294 and 298 were rejected by the Board on review on 12.12.2003 mainly for the reasons of being not in line with the planning intention of the “AGR” zone; and not complying with the Interim Criteria in that the proposed developments were not able to be connected to the existing or planned sewerage system.
- 5.3 Applications No. A/NE-LT/432 and 433 submitted by the same applicants of the current applications were approved with conditions by the Committee on 2.9.2011 mainly on consideration that they complied with the Interim Criteria in that more than 50% of the Small House footprint was within the ‘VE’ of Ma Po Mei; there was a general shortage of land within the “Village Type Development” (“V”) zone in meeting the Small House demand at the time of

consideration; and the proposed Small Houses were able to be connected to the planned sewerage system. The planning permissions lapsed on 3.9.2015.

- 5.4 Subsequently, Applications No. A/NE-LT/582 and 583 submitted by the same applicants were approved by the Committee on 14.9.2016 mainly on sympathetic consideration as the sites were covered by previous approvals. Compared with the last previous applications, there is a slight reduction in site area for A/NE-LT/693 (-20.1m<sup>2</sup> or -13%) and A/NE-LT/694 (-29.7m<sup>2</sup> or -19%), a northward shifting of Small House footprints and no change to the major development parameters.
- 5.5 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

## **6. Similar Applications**

- 6.1 There are 21 similar applications for Small House development in the vicinity of the Sites and within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000, of which ten were approved and 11 were rejected.
- 6.2 Eight applications (No. A/NE-LT/268, 274, 312, 387, 406, 434, 465 and 497) were approved with conditions by the Committee between 2001 and 2014 mainly on the grounds of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the ‘VE’; there was a general shortage of land within the “V” zone to meet the demand for Small House development at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system in the area. Despite the Board’s adoption of a more cautious approach in approving applications for Small House development since August 2015, Application No. A/NE-LT/542 was approved by the Committee in November 2015 as the site had building entitlement, and Application No. A/NE-LT/584 was approved by the Committee in 2016 mainly on sympathetic consideration as the site was covered by previous approval.
- 6.3 For the 11 rejected cases, ten of them (Applications No. A/NE-LT/291, 360, 368, 411, 412, 422, 474, 647, 685 and 686) were rejected by the Committee/the Board on review between 2003 and 2021 mainly because the proposed development was not able to be connected to the existing or planned sewerage system in the area; and/or land being still available within the “V” zone of the concerned villages for Small House development. Application No. A/NE-LT/474 was also rejected as it would cause adverse impact on landscape resources in the surrounding areas. The remaining application No. A/NE-LT/656, although it was able to be connected to the existing public sewerage system, it was rejected by the Board on review in 2019 mainly for the reasons of having adverse geotechnical impact on the surrounding area; and land being still available within the “V” zone for Small House development.
- 6.4 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.

6.5 Regarding the three applications (No. A/DPA/NE-LT/32, A/NE-LT/204 and 209) mentioned by the applicants, they were approved by the Committee in 1994 and 1999 before the first promulgation of the Interim Criteria.

**7. The Sites and Their Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3 and A-4)**

7.1 The Sites are:

- (a) generally flat and currently vacant;
- (b) located next to existing village houses; and
- (c) accessible from a footpath leading to Lam Kam Road.

7.2 The surrounding areas are predominantly rural in character with village houses, active/fallow agricultural land, plant nurseries and tree groups. The village clusters of Ma Po Mei and Ping Long are situated to the northwest and southeast of the Sites on the other side of Lam Tsuen River and Lam Kam Road respectively.

**8. Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

**9. Comments from Relevant Government Departments**

9.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone? - Footprint of the Small House - Application site	- -	100% 100%	- The Sites and the proposed Small House footprints fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small Houses - Application sites	100% 100%	- -	- The Sites and the proposed Small House footprints fall entirely within the ‘VE’ of Ma Po Mei.  - DLO/TP, LandsD has no objection to the applications.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Ma Po Mei and Tai Mong Che: about 4.7 ha (equivalent to 188 Small House sites). The outstanding Small House applications are 38 <sup>2</sup> while the 10-year Small House demand forecast for the same villages is 150.  <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.06 ha (equivalent to 82 Small House sites) ( <b>Plan A-2b</b> ).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agricultural development point of view as there are active agricultural activities in the vicinity, agricultural infrastructure such as footpath and water source is available, and the Sites possess potential for agricultural rehabilitation and could be used for agricultural activities.
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character with village houses, active/fallow agricultural land, plant nurseries and tree groups.
6.	Within WGG?	✓		- The Director of Environmental Protection (DEP) and the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) have no objection to the applications as the Sites are able to be connected to the public
7.	Sewerage Impact	✓		

<sup>2</sup> Among the 38 outstanding Small House applications, 20 of them fall within the “V” zone and 18 straddle or outside the “V” zone. For those 18 applications straddling or outside the “V” zone, two of them have obtained valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
				<p>sewerage system.</p> <ul style="list-style-type: none"> <li>- Approval conditions on connection to public sewers and provision of protective measures to WGG are required.</li> </ul>
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<ul style="list-style-type: none"> <li>- The Director of Fire Services (D of FS) has no in-principle objection to the applications.</li> </ul>
10.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- The Commissioner for Transport (C for T) has general reservation on the applications but considers the applications only involving development of two Small Houses can be tolerated on traffic grounds.</li> </ul>
11.	Drainage impact?	✓		<ul style="list-style-type: none"> <li>- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications from public drainage viewpoint.</li> <li>- Approval condition on submission and implementation of drainage proposal is required.</li> </ul>
12.	Landscape impact?		✓	<ul style="list-style-type: none"> <li>- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the applications from the landscape planning perspective as significant adverse impact on existing landscape resources is not anticipated.</li> </ul>
13.	Geotechnical impact		✓	

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
14.	Local objections conveyed by DO?		✓	

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Other detailed comments are at **Appendix V**.

- (a) DLO/TP, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L, PlanD;
- (e) CE/MN, DSD;
- (f) CE/C, WSD;
- (g) DAFC; and
- (h) D of FS.

9.3 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (c) District Officer/Tai Po, Home Affairs Department.

## **10. Public Comment Received During Statutory Publication Period (Appendix VI)**

The applications were published for public inspection. During the statutory publication period, one public comment from Designing Hong Kong was received covering both of the applications. The public comment objected to the applications mainly on the grounds of being not in line with the planning intention of the “AGR” zone; land being still available within the “V” zone at Ma Po Mei for Small House development; and setting of undesirable precedent.

## **11. Planning Considerations and Assessments**

11.1 The applications are for a proposed Small House development at each of the Sites zoned “AGR” on the OZP. The proposed developments are not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the applications from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as footpath and water source is available; and the Sites possess potential for agricultural rehabilitation and could be used for agricultural activities.



- 11.2 According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Ma Po Mei and Tai Mong Che is 38 while the 10-year Small House demand forecast for the same villages is 150. Based on the latest estimate by the Planning Department, about 2.06 ha of land (equivalent to about 82 Small House sites) are available within the "V" zone concerned. As the Small House footprints fall entirely within the 'VE' of Ma Po Mei, DLO/TP of LandsD has no objection to the applications.
- 11.3 The Sites, located to the southeast of the village cluster of Ma Po Mei across Lam Tsuen River, are generally flat and currently vacant. The proposed Small Houses are not incompatible with the surrounding area which is predominantly rural in character occupied by village houses, active/fallow agricultural land, plant nurseries and tree groups (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the applications from landscape planning perspective as significant adverse impact on existing landscape resources arising from the proposed developments is not anticipated.
- 11.4 The Sites fall within the upper indirect WGG. The applicants have proposed to connect the proposed Small Houses to the existing public sewerage system (**Plan A-2a**). DEP and CE/C of WSD have no objection to the applications provided that the applicants shall connect the proposed Small Houses to the public sewer at their own cost and adequate space within the Sites will be reserved for connection. Besides, C for T has general reservation on the applications but considers the applications only involving the development of two Small Houses can be tolerated on traffic grounds. Other relevant Government departments including CE/MN of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the applications.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprints fall within the 'VE' of Ma Po Mei and the proposed developments within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). Whilst land available within the "V" zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 188 Small Houses, such available land (about 2.06 ha or equivalent to 82 Small House sites) is capable to meet the 38 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development since August 2015. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, it is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Sites are subject to previous approved applications (No. A/NE-LT/582 and 583) for Small House development submitted by the same applicants. Compared with the previous applications, the development parameters of the proposed Small Houses are generally the same except that there is a slight reduction in site areas and corresponding shifting of the Small House footprints northward. Moreover, as advised by DLO/TP of LandsD, the Small House grant applications are still under processing. In view of the above, sympathetic consideration could be given to the current applications.

- 11.6 As shown on **Plan A-2a**, there are seven similar applications covering four sites for Small House development in close proximity to the Sites. Application No. A/NE-LT/434 was approved in 2011 before the Board's adoption of a more cautious approach for Small House development in 2015, and Application No. A/NE-LT/584 covering the same site was approved in 2016 mainly because the site was covered by previous approval. Another application (No. A/NE-LT/542) was approved in 2015 mainly on the grounds of having building entitlement. For the four rejected applications (No. A/NE-LT/368, 647, 685 and 686), they were rejected by the Committee/the Board on review between 2007 and 2021 mainly on the grounds of being not able to be connected to existing/planned sewerage system in the area; and/or land being still available within the "V" zone for Small House development. The planning circumstances of the current applications are similar to Application No. A/NE-LT/584 which is covered by previous planning approval.
- 11.7 Regarding the public comment objecting to the applications on the grounds as detailed in paragraph 10 above, Government departments' comments and the planning assessments above 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 applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 23.7.2025, 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 a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

### Advisory Clauses

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

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 "Agriculture" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention; and
- (b) land is still available within the "Village Type Development" ("V") zone of Ma Po Mei and Tai Mong Che which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

### **13. Decision Sought**

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

### **14. Attachments**

Appendix Ia	Application form and attachment received on 7.12.2020 (A/NE-LT/693)
Appendix Ib	Application form and attachment received on 7.12.2020 (A/NE-LT/694)
Appendix Ic	Further Information received on 11.6.2021
Appendix II	Relevant revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comment
Appendix VII	Recommended advisory clauses
Drawing A-1	Location plan and sewerage connection proposal submitted by the applicant (A/NE-LT/693)

Drawing A-2	Location plan and sewerage connection proposal submitted by the applicant (A/NE-LT/694)
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within “V” zone
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT**  
**JULY 2021**