

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LT/738 and 739

<u>Applicants</u>	: Mr. LEUNG Tsz Lun Mr. LEUNG Tsz Ho Application No. A/NE-LT/738 is represented by Mr. LEUNG Tsz Ho	(Application No. A/NE-LT/738) (Application No. A/NE-LT/739)
<u>Sites</u>	: Lot 913 S.B RP Lot 913 S.B ss.1 All in D.D. 8, Ma Po Mei, Lam Tsuen, Tai Po	(Application No. A/NE-LT/738) (Application No. A/NE-LT/739)
<u>Site Areas</u>	: About 296m ² About 166.5m ²	(Application No. A/NE-LT/738) (Application No. A/NE-LT/739)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)	
<u>Plan</u>	: Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11	
<u>Zoning</u>	: “Agriculture” (“AGR”)	
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House) on each of the application sites	

1. The Proposal

- 1.1 The applicants, indigenous villagers of Ma Po Mei Village¹ as confirmed by the Indigenous Inhabitant Representative, seek planning permission to build a 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)’ in 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 ² |
| No. of storeys | : | 3 |
| Building height | : | 8.23m |
| Roofed over area | : | 65.03m ² |
- 1.3 The uncovered area of the Sites are proposed to be used as garden. Layout of the proposed Small Houses and the proposed sewerage connection are shown on **Drawings A-1 to A-3**.

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

- 1.4 The Sites are the subject/part of the subject of seven previous applications (No. A/NE-LT/105, 106, 204, 368, 647, 685 and 686) for the same use, of which applications No. A/NE-LT/105, 106 and 204 were each submitted by a different applicant as the current applications whereas applications No. A/NE-LT/368, 647, 685 and 686 were submitted by the same applicants (**Plans A-1 and A-2a**). Except for Application No. A/NE-LT/204 approved by the Rural and New Town Planning Committee (the Committee) in 1999 which lapsed on 14.8.2002, all other applications were rejected. Details of previous applications are set out in paragraph 5 below. Compared with the last previous applications (No. A/NE-LT/685 and 686), the footprint and development parameters of the proposed Small Houses are generally the same under the current applications.
- 1.5 In support of the applications, the applicants have submitted the application forms with attachments received on 14.9.2022 (**Appendices Ia and Ib**).

2. Justifications from the Applicants

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

- (a) the applicants are indigenous villagers of Ma Po Mei who are eligible to apply for a Small House under the prevailing Small House policy and the Sites are the only pieces of lands registered under their names for Small House development;
- (b) there are not enough land available within the “Village Type Development” (“V”) zones of Ma Po Mei, Tai Mong Che and Shui Wo for Small House development, and the Sites are the only available option;
- (c) the Sites are located entirely within the village ‘environs’ (‘VE’) of Ma Po Mei and are surrounded by village houses. The proposed Small Houses would not cause adverse visual impact on the surroundings;
- (d) the Site are located 50m away from Lam Kam Road and therefore, would not affect future widening works of the road;
- (e) the proposed Small Houses would not cause adverse environmental impact on the surroundings as the applicants proposed to connect the Small Houses to the public sewerage system and tree felling is not involved; and
- (f) the Sites are the subject of a previously approved Small House application (No. A/NE-LT/204). Approvals were also given to similar applications in the vicinity of the Sites (No. A/NE-LT/582, 583, 584, 693 and 694) (**Plan A-2a**).

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. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Applications

- 5.1 The Sites are the subject/part of the subject of seven previous applications for the same use. As shown on **Plans A-1** and **A-2a**, Application No. A/NE-LT/738 (i.e. Lot 913 S.B RP) is the subject/part of the subject of five previous applications No. A/NE-LT/106, 204, 368, 647 and 686. Application No. A/NE-LT/739 (i.e. Lot 913 S.B ss.1) is the subject/part of the subject of four previous applications No. A/NE-LT/105, 204, 647 and 686. Applications No. A/NE-LT/105, 106 and 204 were each submitted by a different applicant whereas the rest were submitted by the same applicants as the current applications, of which one was approved and six were rejected.
- 5.2 Applications No. A/NE-LT/105 and 106 were rejected by the Board on review on 23.1.1998 before the first promulgation of the Interim Criteria in 2000. Application No. A/NE-LT/204 submitted by a different applicant, which generally covered the same sites of Applications No. A/NE-LT/105 and 106, was approved by the Committee on 13.8.1999 on consideration that the Site fell within the 'VE' of Ma Po Mei; the proposed Small Houses were compatible with the surrounding areas; the proposed developments would not have adverse drainage impact due to the completion of works on Lam Tsuen River Embankment; and there was a general shortage of land to meet the Small House demand in the "V" zone concerned at the time of consideration. Nonetheless, the planning permission lapsed on 14.8.2002.
- 5.3 Applications No. A/NE-LT/368, 647, 685 and 686 were rejected by the Committee/the Board on review between 2007 and 2021 mainly on the grounds of being not in line with the planning intention of the "AGR" zone and not complying with the Interim Criteria in that the proposed development was not able to be connected to existing or planned sewerage system and would cause adverse impact on the water quality in the area. Applications (No. A/NE-LT/647, 685 and 686) were rejected also on the ground that land was still available within the "V" zone of the concerned villages for Small House development.
- 5.4 Details of the above 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 13 similar applications for Small House development in the vicinity of the Sites within the same "AGR" zone since the first promulgation of the Interim Criteria, of which ten were approved and three were rejected.
- 6.2 For the ten approved applications, five (No. A/NE-LT/274, 406 and 432 to 434) were approved with conditions by the Committee between 2002 and 2011 mainly for reasons that the proposed developments were in compliance 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 to meet the Small House demand in the "V" zone of the concerned villages at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system. After the Board's formal adoption of a more cautious approach in approving applications for Small House development in August 2015, Applications No. A/NE-LT/582 to 584, 693 and 694 were approved by the Committee in 2016 and 2021 respectively mainly on sympathetic consideration as the sites were covered by previous approvals.

- 6.3 The remaining three applications (No. A/NE-LT/291, 294 and 298) were rejected by the Committee/the Board in 2003 mainly for being not in line with the planning intention of the "AGR" zone and the applicants failed to demonstrate that the proposed developments located within water gathering grounds (WGG) would not cause adverse water quality impacts on the surrounding areas.
- 6.4 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:
- (a) generally flat and partly covered by self-seeded vegetation;
 - (b) located entirely within the 'VE' of Ma Po Mei;
 - (c) accessible via a footpath leading to Lam Kam Road; and
 - (d) located within the upper indirect WGG.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, temporary structures, farmland and tree groups. Lam Kam Road is about 40m to the east of the Sites. 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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the Small Houses - Application sites	- -	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.
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 5.78 ha (equivalent to 231 Small House sites). The outstanding Small House applications are 31 ² while the 10-year Small House demand forecast for the same villages is 200.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.06 ha (or equivalent to 82 Small House sites) (Plan A-2b).
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 the Sites possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character comprising village houses, temporary structures, tree groups and farmland.

² Among the 31 outstanding Small House applications, 17 of them fall within the “V” zones and 14 straddle or outside the “V” zones. For those 14 applications straddling or being outside the “V” zone, two of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within WGG?	✓		<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that the feasibility of sewerage connection is subject to the invert level of discharge connection pipe leading from the Sites. However, the applicants have not provided information to demonstrate the technical feasibility of sewerage connection. - The Director of Environmental Protection (DEP) and the Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) does not support/objects to the applications as the applicants fail to demonstrate the feasibility of public sewerage connection.
7.	Sewerage Impact	✓		
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"> - The Director of Fire Services (D of FS) has no in-principle objection to the applications.
10.	Traffic impact?	✓		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) considers that Small House applications should be confined within the “V” zone as far as possible. Notwithstanding, he considers that the applications only involving development of two Small Houses can be tolerated on traffic grounds.
11.	Drainage impact?	✓		<ul style="list-style-type: none"> - CE/MN, DSD considers that approval condition on the submission and implementation of drainage proposal for the Sites is required.
12.	Landscape impact?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/Urban

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective as significant adverse impact on existing landscape resources within the Sites and the landscape character arising from the proposed Small Houses are not anticipated.
13.	Geotechnical impact		✓	
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) DAFC;
- (g) D of FS; and
- (h) CE/C, WSD.

9.3 The following government departments have no objection to/no adverse comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (b) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

10. Public Comments Received During Statutory Publication Period (Appendix VI)

The applications were published for public inspection. During the statutory public inspection period, two public comments for each of the applications were received from the same individuals objecting to the applications mainly on the grounds that the proposed developments will cause adverse traffic, environmental and ecological impacts; affect villagers' safety and living quality; increase risk of fire hazard; and land is still available within the "V" zone of Ma Po Mei and Tai Mong Che for Small House development.

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 agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as road access and water source is available; and the Sites possess potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 The Sites, located at the southeastern fringe of the village cluster of Ma Po Mei across Lam Tsuen River, are generally flat and partly covered with self-seeded vegetation. The proposed developments are not incompatible with the surrounding areas which are predominantly rural in character with a mix of village houses, temporary structures, farmland 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 within the Sites and the landscape character arising from the proposed developments are not anticipated.
- 11.3 Regarding the Interim Criteria (**Appendix II**), according to the DLO/TP, LandsD, the number of outstanding Small House applications for Ma Po Mei and Tai Mong Che is 31 while the 10-year Small House demand forecast for the same villages is 200. Based on PlanD’s latest estimates, about 2.06 ha of land (equivalent to 82 Small House sites) is available within the “V” zones concerned. While the amount of land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering 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, the Board has put more weighting on the number of outstanding Small House applications as provided by LandsD. It is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.4 The Sites fall within the upper indirect WGG and the applicants have proposed to connect the proposed Small Houses to the existing public sewerage system at Ma Po Mei, which is located near the Sites (**Plan A-2a**). However, CE/MN of DSD advises that the applicants have not provided information to demonstrate the technical feasibility of sewerage connection. DEP and CE/C of WSD does not support/objects to the applications as the applicants fail to demonstrate that the proposed Small Houses are able to be connected to public sewerage system in the area. CE/MN of DSD also considers that a condition on submission and implementation of drainage proposal for the Sites is required. Other relevant government departments including DO(TP) of HAD, D of FS, C for T and CHE/NTE of HyD have no objection to or adverse comments on the applications.

- 11.5 The Sites form part of the subject of a previously approved application (No. A/NE-LT/204) submitted by a different applicant as the current applications. The application was approved in 1999 before the first promulgation of the Interim Criteria. The planning permission, however, lapsed on 14.8.2002. According to the Interim Criteria (d) (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits. Given that the current applications are submitted by different applicants and land is still available within “V” zone of Ma Po Mei and Tai Mong Che for Small House development, sympathetic consideration may not be given to the applications. Applications No. A/NE-LT/368, 647, 685 and 686 submitted by the same applicants were rejected by the Committee/Board between 2007 and 2021 mainly for reasons that the proposed development was not in line with the planning intention of the “AGR” zone and being not able to be connected to the existing/planned public sewers in the area. Applications No. A/NE-LT/647, 685 and 686 were also rejected on the ground that land was still available within the “V” zone of the concerned villages for Small House development. The planning circumstances of the current applications are similar to these rejected ones.
- 11.6 As shown on **Plan A-2a**, there are 13 similar applications for Small House development covering five sites in close proximity to the Sites. Five of which (No. A/NE-LT/274, 406, 432, 433 and 434) were approved before the Board’s formal adoption of a more cautious approach in approving applications for Small House development. Subsequently, five applications (No. A/NE-LT/582, 583, 584, 693 and 694) with previous approvals submitted by the same applicants were approved in 2016 and 2021 respectively on sympathetic consideration. The planning circumstances of the current applications are different from the approved similar applications.
- 11.7 Regarding the public comments objecting to the applications on the grounds as detailed in paragraph 10, government departments’ comments and the planning assessments and considerations 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 comments mentioned in paragraph 10, Planning Department does not support the applications for the following reasons:
- (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 submission for a departure from the planning intention;
 - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the applicant fails to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and

- (c) land is still available within the “Village Type Development” (“V”) zones 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” zones for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 11.11.2026, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The following condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

- the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

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

13. Decision Sought

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

14. Attachments

Appendix Ia	Application form and attachments received on 14.9.2022 (Application No. A/NE-LT/738)
Appendix Ib	Application form and attachments received on 14.9.2022 (Application No. A/NE-LT/739)
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 comments
Appendix VII	Recommended advisory clauses

Drawings A-1 to A-3	Layout plans and sewerage connection plan submitted by the applicants
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within “V” zones
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2022**