

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/762

Applicant : Mr. WONG Oliver Ka Kit

Site : Lot 623 RP in D.D. 8, Ma Po Mei Village, Lam Tsuen, Tai Po, N.T

Site Area : About 175.5m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11

Zoning : “Agriculture” (“AGR”)

Application : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who claims himself to be an indigenous villager of Ma Po Mei Village¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) (**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 the proposed Small House development 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 Location and layout of the proposed Small House and the sewerage connection are shown in **Drawings A-1 to A-3**.

1.4 The Site is the subject of a previous application (No. A/NE-LT/268) for the same use submitted by a different applicant approved by the Rural and New Town Planning Committee (the Committee) on 7.12.2001 and subsequently lapsed in 2004. Compared with the previous application, the footprint and development parameters of the proposed small house remain the same except that connection to sewerage system instead of septic tank is proposed for the current application. Details of previous application are set out in paragraph 5.1

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

below

- 1.5 In support of the application, the applicant has submitted an Application Form with attachment received on 15.11.2023 (**Appendix I**).

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application stated in Part 8 of the Application Form at **Appendix I** are summarized as follows:

- (a) the Site is the subject of an approved application (No. A/NE-LT/268) submitted by the applicant's father. Subsequent to the approval of the application in 2001, the proposed development was not implemented due to financial problems and the public sewerage system had not been fully established at that time;
- (b) there are difficulties in obtaining land in the "Village Type Development" ("V") zone of Ma Po Mei due to land ownership issue; and
- (c) the proposed Small House will connect to the existing sewerage system.

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

The applicant is 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 Application**

- 5.1 The Site is the subject of a previous application (No. A/NE-LT/268) for proposed Small House submitted by a different applicant. It was approved with conditions by the Committee on 7.12.2001 mainly on considerations that the proposed development was in line with the Interim Criteria that 100% of the proposed Small House footprint was within the village 'environs' ('VE') of Ma Po Mei Village; compatible with the surrounding rural and village environment; and there was a general shortage of land in meeting the demand for Small House development in the concerned "V" zone at the time of consideration.
- 5.2 Details of the above previous application are summarized at **Appendix III** and the location is shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are seven similar applications for Small House development in the vicinity of the Site within/straddling the same “AGR” zone since the first promulgation of the Interim Criteria, of which one was approved and six were rejected.
- 6.2 Application No. A/NE-LT/465 was approved with conditions by the Committee in 2012 (i.e. before the formal adoption of a more cautious approach by the Board since August 2015²), mainly on the grounds of being in line with the Interim Criteria in that more than 50% of the Small House footprint fell within the “V” zone and ‘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 being able to be connected to the planned sewerage system.
- 6.3 The remaining six applications (No. A/NE-LT/291, 360, 411, 412, 422 and 656) were rejected by the Committee/ the Board on review between 2003 and 2019 mainly on the grounds that the proposed Small House developments were not in line with the planning intention of the “AGR” zone; and/or the applicants failed to demonstrate that the proposed developments located within the water gathering ground (WGG) 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. Application No. A/NE-LT/656 was rejected also on the grounds of not complying with the Interim Criteria in that the applicant failed to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding area, and land was still available within the concerned “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 **Plan A-2a**.

7. The Site and Its Surrounding Area (Plans A-1 to A-4)

- 7.1 The Site is:
- (a) currently vacant, covered with 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 with village houses, farmland, plant nursery and scattered tree groups. The village houses of Ma Po Mei are mainly located to the north of the site in the “V” zone covering both Ma Po Mei and Tai Mong Che Villages. Tree groups are found to the northwest of the Site.

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications provided by LandsD.

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 application has 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 House - Application site	- -	100% 100%	- The Site and the proposed Small House footprint fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%	- -	- The Site and the proposed Small House footprint 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 Tai Mong Che and Ma Po Mei: about 5.65 ha (equivalent to 226 Small House sites). The outstanding Small House applications are 26 ³ while the 10-year Small House demand forecast for the same villages is 200. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.05 ha (or equivalent to 82 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		

³ Among the 26 outstanding Small House applications, 21 of them fall within or largely within the “V” zone and 5 fall outside/ largely outside the “V” zone. For those 5 applications straddling or being outside the “V” zone, two of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural development point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The Site is situated in an area of settled valleys landscape character comprising of village house, farmland, plant nursery and scattered tree groups.
6.	Within WGG?	✓		- Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the Small House is proposed to be connected to public sewerage system.
7.	Sewerage Impact		✓	- Director of Environmental Protection (DEP) has no objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the Small House to the existing public sewer at their own costs and reserve adequate land for the sewer connection works.
8.	Encroachment onto planned road networks and public works boundaries?		✓	- There are currently no public roads under maintenance would be affected by the application.
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) considers that Small House applications should be confined within the “V” zone as far as possible. Although additional traffic generated by

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. Notwithstanding, the application only involves development of one Small House could be tolerated on traffic grounds.
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection on the application from public drainage viewpoint.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as further adverse impact on the existing landscape resources arising from the proposed use is not anticipated.
13.	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) DAFC;
- (c) C for T
- (d) DEP;
- (e) CTP/UD&L, PlanD;
- (f) CE/MN, DSD;
- (g) D of FS; and
- (h) CE/C, WSD.

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

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

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

The application was published for public inspection. During the statutory public inspection period, a public comment was received from an individual objecting to the application on the ground that 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 application is for a proposed Small House development at the Site zoned “AGR” on the OZP. The proposed development is 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 application from the 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 Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 The Site is located entirely within the ‘VE’ boundary of Ma Po Mei and currently covered with self-seeded vegetation. The proposed development is not incompatible with the surrounding areas which is predominantly rural in character with a mix of village houses, farmland, plant nursery and scattered tree groups (**Plans A-2a** and **A-3**). CTP/UD&L of PlanD has no objection on the application from landscape planning perspective as further adverse impact on the existing landscape resources arising from the proposed use is not anticipated.
- 11.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/TP, LandsD, the number of outstanding Small House applications for Tai Mong Che and Ma Po Mei is 26 while the 10-year Small House demand forecast is 200. Based on PlanD’s latest estimate, about 2.05 ha of land (equivalent to 82 Small House sites) is available within the “V” zone 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. Among 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. In this regard, 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 Site falls within the upper indirect WGG and is less than 30m away from the nearest water course. The applicant proposes to connect the proposed Small House to the public sewerage system in the vicinity of the Site in Ma Po Mei. DEP, CE/C of WSD and CE/MN of DSD have no in-principle objection on the application. Other relevant government departments including D of FS, C for T, and CHE/NTE of HyD have no objection to or adverse comments on the application.
- 11.5 The Site is the subject of a previously approved application (No. A/NE-LT/268) as set out in paragraph 5.1 above. The applicant claims that he is the son of the applicant of the previously approved application and the Small House development, which was not implemented due to financial and technical difficulties at that time. It should be noted that this previous application was submitted by a different applicant and the planning permission, which was granted in 2001, had already lapsed in 2004. Considering the Interim Criteria (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits, and sympathetic consideration is not applicable for the subject application.
- 11.6 As shown on **Plan A-2a**, there are seven similar applications for Small House development in close proximity to the Site as detailed in paragraph 6 above. Among them, only application No. A/NE-LT/656 was considered and rejected after the Board’s formal adoption of a more cautious approach since August 2015 mainly on the grounds that the proposed Small House development was not in line with the planning intention of the “AGR” zone, not complying with the Interim Criteria in that the applicant failed to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding area; and land was still available within the concerned “V” zone for Small House development. The planning circumstances of the current application is similar to this rejected application in that the proposed Small House development was not in line with the planning intention of the “AGR” zone and land was still available within the concerned “V” zone for Small House development.
- 11.7 Regarding the public comment objecting to the application 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 comment mentioned in paragraph 10, Planning Department does not support the application for the following reasons:
 - (a) The proposed development is 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. 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; and

- (b) land is still available within the “V” zone of Tai Mong Che and Ma Po Mei 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 infrastructures and services.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 12.1.2028, 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 recommended advisory clauses are attached at **Appendix VII**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.

14. Attachments

Appendix I	Application form and attachment received on 5.1.2023
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 application
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant government departments
Appendix VI	Public comment
Appendix VII	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawings A-2 and A-3	Sewerage connection proposal submitted by the applicant
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 photo