

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

**APPLICATION NO. A/NE-TK/770**

<b><u>Applicant</u></b>	Mr. WONG Tin-lok
<b><u>Site</u></b>	Government Land in D.D. 28, Tai Mei Tuk, Tai Po, New Territories
<b><u>Site Area</u></b>	About 59.7m <sup>2</sup>
<b><u>Land Status</u></b>	Government land (GL)
<b><u>Plan</u></b>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<b><u>Zoning</u></b>	“Green Belt” (“GB”)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Tai Mei Tuk Village as confirmed by the Indigenous Inhabitant Representative (IIR)<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site). The Site falls within an area zoned “GB” on the approved Ting Kok OZP No. S/NE-TK/19 (**Plan A-1**). According to the Notes of the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “GB” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	:	179.1m <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	59.7m <sup>2</sup>

1.3 The Site is accessible via a local track connecting to Ting Kok Road. The applicant proposes to connect the proposed development to an existing public sewer. The layout of the proposed Small House and sewerage connection proposal submitted by the applicant are shown in **Drawing A-1**.

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<sup>1</sup> As advised by District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), the applicant’s eligibility for Small House grant has yet to be ascertained.

- 1.4 The Site is part of the subject of a previous application (No. A/NE-TK/540) submitted by the same applicant for the same use (**Plan A-2a**), which was approved by the Rural and New Town Planning Committee (the Committee) on 27.2.2015. Details of the previous application are set out in paragraph 6 below.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on (b) 30.1.2023 (**Appendix I**)
  - (b) Further Information (FI) received on 2.3.2023 (**Appendix Ia**)
  - (c) FI received on 20.4.2023 (**Appendix Ib**)  
(*accepted but not exempted from publication and recounting requirements*)
  - (d) FI received on 31.5.2023 (**Appendix Ic**)
- 1.6 On 17.3.2023, the Committee agreed to the applicant's request to defer making a decision on the application for 2 months to allow more time for the applicant to address departmental comments.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I to Ic**, as summarized below:

- (a) the Site is the subject of a planning permission for a Small House under Application No. A/NE-TK/540 in 2015. The applicant subsequently applied for extension of time limit for commencement of the approved Small House in 2018;
- (b) when compared with the previous application, the site area and Small House footprint have been modified under the current application to provide reasonable space (i.e. more than 4m in width) for pedestrian and vehicular access next to the Site; and
- (c) in light of the judicial review of the Small House Policy, LandsD suspended the processing of applications on GL to build Small Houses between 2019 and 2021. The Small House grant application at the Site was affected. The current application is to facilitate further processing of the Small House grant application which should warrant special consideration from the Board.

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

As the Site involves GL only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable.

#### **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. Town Planning Board Guidelines**

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' is relevant to this application. The relevant assessment criteria are at **Appendix III**.

#### **6. Previous Application**

- 6.1 The Site is part of the subject of a previous application (No. A/NE-TK/540) covering a larger site (i.e. 65.03m<sup>2</sup>) for Small House development submitted by the same applicant (**Plan A-2a**). The previous application was approved with conditions by the Committee on 27.2.2015 mainly on consideration of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the village 'environs' ('VE') and there was a general shortage of land to meet the demand for Small House development within the "Village Type Development" ("V") zone at the time of consideration; compliance with TPB PG-No. 10; and no adverse comment from relevant government departments. The validity period of the planning permission was extended once until 27.2.2023. Subsequently, the planning permission lapsed on 28.2.2023.
- 6.2 Compared with the previous application, the current application involves a smaller site (reduced from 65.03m<sup>2</sup> to 59.7m<sup>2</sup>), smaller total floor area (reduced from 195.09m<sup>2</sup> to 179.1m<sup>2</sup>) and changes in the disposition of the Small House footprint. According to the applicant, such changes are to provide reasonable space for pedestrian and vehicular access next to the Site.
- 6.3 Details of the previous application are summarized at **Appendix IV** and its location is shown on **Plans A-1 and A-2a**.

#### **7. Similar Applications**

- 7.1 There are 21 similar applications involving 19 sites for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.1.2020. Out of the similar applications, 17 fall wholly within "GB" zone and 4 straddle both "GB" and "V" zones. 16 of them were approved and the remaining 5 were rejected.
- 7.2 Among the approved cases, 10 applications (No. A/NE-TK/177, 179, 204, 294, 419, 449, 521-522, 531 and 545) were approved with conditions by the Committee between 2004 and 2015, mainly on consideration that the proposed Small House footprint fell mostly within the 'VE' and there was a general shortage of land in meeting the demand for Small House development within

the “V” zone at the time of consideration; no significant adverse impacts on the surrounding areas were anticipated; compliance with TPG PG-No. 10; and/or the site was the subject of previously approved application. The remaining 6 applications (No. A/NE-TK/573, 582, 585, 654, 736 and 771) were approved after the Board’s formal adoption of a more cautious approach in August 2015. Notwithstanding that sufficient land was available within the “V” zone to meet the Small House demand at the time of consideration, these applications were approved mainly on sympathetic consideration that the application sites were located in close proximity to the existing village clusters; no significant adverse impacts on the surrounding areas were anticipated; and/or the sites were the subject of previously approved applications.

- 7.3 For Applications No. A/NE-TK/401, 577, 622, 635 and 663, they were rejected by the Committee or the Board on review between 2012 and 2019 mainly for reasons of causing adverse landscape and/or geotechnical impacts on the surrounding areas. The latter 4 applications were also rejected on the grounds that sufficient land was available within the “V” zone for Small House development at the time of consideration.
- 7.4 Details of the similar applications are summarized at **Appendix V** and their locations are shown on **Plan A-2a**.

## **8. The Site and Its Surrounding Areas (Plans A-1 to A-4)**

### **8.1 The Site is:**

- (a) currently vacant and covered with wild grass;
- (b) entirely within the ‘VE’ of Lung Mei and Tai Mei Tuk; and
- (c) accessible via a local track connected to Ting Kok Road (**Plan A-1**).

### **8.2 The surrounding areas have the following characteristics:**

- (a) predominantly rural in character comprising a mix of village houses and vacant lands;
- (b) to the north are some existing Small Houses and sites with planning approvals for Small House development. About 25m to the south is the “V” zone of Tai Mei Tuk and Lung Mei; and
- (c) to the immediate west is the site for Small House development approved under application No. A/NE-TK/531 and to the further west is a cluster of Small House developments approved under application No. A/NE-TK/204. A vegetated slope is found to the northeast of the Site.

## 9. 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.

## 10. Comments from Relevant Government Departments

10.1 The application has been assessed against the assessment criteria at **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 proposed Small House - The Site	- -	100% 100%	- The Site and the proposed Small House footprint fall entirely within the “GB” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	- The Site and the proposed Small House footprint fall entirely within ‘VE’ of Lung Mei and Tai Mei Tuk.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand forecast)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Lung Mei and Tai Mei Tuk: about 6.43 ha (equivalent to 257 Small House sites). The outstanding Small House applications are 45 <sup>2</sup> while the 10-year Small House demand forecast is 212.
	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 Lung Mei and Tai Mei Tuk: about 1.64 ha (equivalent to about 65 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within the “GB” zone.  - Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view.

<sup>2</sup> Among the 45 outstanding Small House applications in Lung Mei and Tai Mei Tuk, 28 fall within the “V” zone and 17 straddle or fall outside the “V” zone. For cases straddling or falling outside the “V” zone, one of them has 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>
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character with a mix of village houses and vacant lands.
6.	Within Water Gathering Grounds (WGGs)?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C,WSD) has no objection to the application.
7.	Environmental and Sewerage impact?		✓	- Director of Environmental Protection (DEP) has no in-principle 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 his own costs and reserve adequate land for the sewer connection works.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire service 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 development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed Small House development is not expected to be significant, such type of development outside “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 above, the application only involves the development of one Small House and there are parking spaces available at the carpark near the entrance of Tai Mei Tuk Village at night time. Hence, the application can be tolerated on traffic grounds.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) considers that an approval condition on the submission and implementation of a drainage proposal is required.
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 significant adverse landscape impact on landscape resources arising from the proposed Small House development is not anticipated.
13.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil and Engineering and Development (H(GEO), CEDD) has no comment on the application from geotechnical aspect.
14.	Local objections received from DO?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix VI**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD); and
- (c) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

## **11. Public Comments Received During Statutory Publication Period (Appendix VII)**

The application was published for public inspection. During the statutory public inspection period, 3 public comments including one with 15 signatures were received from individuals objecting to the application mainly for reasons of being not in line

with the planning intention of the “GB” zone; involving GL; affecting village ingress/egress; being too close to adjacent village house; causing adverse geotechnical and landscape impacts; and setting of an undesirable precedent.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for a proposed Small House development at the Site zoned “GB” on the OZP. 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. The proposed development is not in line with the planning intention of the “GB” zone. Nevertheless, DAFC has no strong view on the application from nature conservation point of view.
- 12.2 The Site is currently vacant and covered with wild grass. The proposed Small House is compatible with the surrounding land uses comprising mainly village houses including a cluster of Small House developments approved under Application No. A/NE-TK/204 to the west, existing Small Houses and sites with planning approvals for Small House development to the north, and the village proper of Tai Mei Tuk about 25m to the south (**Plan A-2a**). CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse landscape impact arising from the proposed development is not anticipated. C for T considers that the application involving only one Small House could be tolerated. Other relevant government departments including DEP, CE/C of WSD, CE/MN of DSD and D of FS have no objection to nor adverse comment on the application. Given that the proposed Small House is located in close proximity to the existing village cluster of Tai Mei Tuk, in keeping with surrounding land uses and not expected to cause significant adverse impacts on the surrounding areas, the current application is generally in line with TPB-PG No. 10.
- 12.3 Regarding the Interim Criteria (**Appendix II**), the proposed Small House footprint falls entirely within the ‘VE’ of Lung Mei and Tai Mei Tuk. According to DLO/TP of LandsD, the number of outstanding Small House applications for Lung Mei and Tai Mei Tuk is 45 while the 10-year Small House demand forecast for the same villages is 212. Based on the latest estimate by PlanD, about 1.64ha of land (or equivalent to about 65 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While land available within the “V” zone 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 approving applications for Small House development in August 2015. Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weight 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 Site is the subject of a previously approved application (No. A/NE-TK/540) as set out in paragraph 6.1 above. DLO/TP of LandsD also



advises that the Small House grant application at the Site is under processing. Sympathetic consideration may be given to the current application.

- 12.4 There are 21 similar applications involving 19 sites located in close proximity to the Site falling within/partly within the same “GB” zone (**Plan A-2a**), among which 11 applications were considered between 2004 and 2015. Since the formal adoption of a more cautious approach by the Board in August 2015, 6 similar applications (No. A/NE-TK/573, 582, 585, 654, 736 and 771) were approved between 2016 and 2023 mainly on sympathetic consideration that the application sites were in close proximity to the existing village clusters; no significant adverse impacts on surrounding areas were anticipated; and/or the sites were the subject of previously approved applications. The planning circumstances of the current application are similar to those 6 approved applications.
- 12.5 Regarding the public comments objecting to the application as detailed in paragraph 11 above, government departments’ comments and the planning assessments above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.6.2027, 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 approval condition 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 VIII**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members’ reference:
- (a) the proposed development is not in line with the planning intention of the “GB” zone which 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. There is no strong planning justification in the submission for a departure from this planning intention; and

- (b) land is still available within the “V” zone of Lung Mei and Tai Mei Tuk 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.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

#### **15. Attachments**

<b>Appendix I</b>	Application Form with Attachments Received on 30.1.2023
<b>Appendix Ia</b>	FI Received on 2.3.2023
<b>Appendix Ib</b>	FI Received on 20.4.2023
<b>Appendix Ic</b>	FI Received on 31.5.2023
<b>Appendix II</b>	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Relevant Extracts of TPB PG-No. 10
<b>Appendix IV</b>	Previous Application
<b>Appendix V</b>	Similar Applications
<b>Appendix VI</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VII</b>	Public Comments
<b>Appendix VIII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site plan and sewerage connection plan submitted by the applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2a</b>	Site plan
<b>Plan A-2b</b>	Estimated amount of land available within the “V” zone of Lung Mei and Tai Mei Tuk for Small House development
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
JUNE 2023**