

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

**APPLICATION NO. A/NE-TK/771**

<b><u>Applicant</u></b>	Mr. Patrick WONG
<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 65.03m <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 of Tai Po Heung as confirmed by the Indigenous Inhabitant Representative (IIR)<sup>1</sup>, seeks planning permission to build a 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	:	195.09m <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m <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 Part of the Site is the subject of a previous application (No. A/NE-TK/419) submitted by a different applicant for the same use (**Plan A-2a**), which was approved by the Rural and New Town Planning Committee (the Committee) in 2012. 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) Further Information (FI) received on 18.4.2023

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

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form and FI at **Appendices I and Ia**. The applicant claims that he is an indigenous villager of Tai Mei Tuk Village and wishes to build a Small House at the Site as he does not own any private land and could not identify other pieces of suitable GL for building Small House within the village.

## **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, which was 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 northeastern portion of the Site is the subject of a previous application (No. A/NE-TK/419) (**Plan A-2a**) submitted by a different applicant for the same use, which was approved with conditions by the Committee on 21.12.2012 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; complying with TPB PG- No. 10; and no adverse comment from relevant government departments. Subsequently, the planning permission lapsed on 22.12.2016. Compared with the previous application, the current application involves changes in site boundary and disposition of the proposed Small House. The proposed Small House footprint has shifted westwards towards a cluster of Small House developments approved under Application No. A/NE-TK/204 (**Plan A-2a**).

- 6.2 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 20 similar applications involving 18 sites for Small House development in the vicinity of the Site, including 16 falling wholly within “GB” zone and 4 straddling both “GB” and “V” zones, since the first promulgation of the Interim Criteria on 24.1.2020. 15 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, 449, 521-522, 531, 540 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; complying with TPG PG-No. 10; and/or being the subject of previously approved application. The remaining 5 applications (No. A/NE-TK/573, 582, 585, 654 and 736) 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 cluster; no significant adverse impacts on the surrounding areas were anticipated; and/or the sites were the subject of previously approved application.
- 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 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 and south are some existing Small Houses and sites with planning approvals for Small House development. The "V" zone of Tai Mei Tuk and Lung Mei is about 50m to the south; and
- (c) to the west is a cluster of Small House developments approved under application No. A/NE-TK/204. A vegetated slope and dense woodland are found to the east and further north of the Site respectively.

## 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 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 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.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand forecast)?		✓	<u><b>Land Required</b></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><b>Land Available</b></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.
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?		✓	

<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.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
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 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 impacts could be substantial. Notwithstanding the above, the application only involves the development of one Small House and could be tolerated on traffic grounds.
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 is not anticipated.
13.	Geotechnical impact?		✓	
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; and
- (h) CTP/UD&L, PlanD.

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

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

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

During the statutory public inspection period, a public comment was received from an individual objecting to the application mainly for reasons of being not in line with the planning intention of the “GB” zone; land is still available within the “V” zone to meet the outstanding Small House applications; and the site access would entail incursion into additional GL.

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

12.1 This 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. It is also sandwiched by sites with approved applications (No. A/NE-TK/582 and 736) for Small House developments to its immediate south and north (**Plan A-2a**). 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 south, and the village proper of Tai Mei Tuk about 50m to the further south. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse landscape impact is not anticipated, and 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. Since 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 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 bounded by existing Small Houses and approved Small House developments in the north, west and south, and a vegetated slope to the east. The scope of extending the village to further east within the same “GB” zone is limited. Hence, the Site could be considered as an infill site among existing and approved Small House sites, and sympathetic consideration might be given to the current application.
- 12.4 There are 20 similar applications involving 18 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, 4 similar applications (No. A/NE-TK/577, 622, 635 and 663) were rejected by the Committee or the Board on review mainly for reasons of causing adverse landscape and/or geotechnical impacts; and sufficient land availability within the “V” zone to meet the outstanding Small House applications. 5 similar applications (No. A/NE-TK/573, 582, 585, 654 and 736) were approved between 2016 and 2021 mainly on sympathetic consideration that the application sites were in close proximity to the existing village cluster; and no significant adverse impacts on surrounding areas were anticipated. The planning circumstances of the current application are similar to those 5 approved applications.
- 12.5 Regarding the public comment 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 comment 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 5.5.2027, 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 14.3.2023
<b>Appendix Ia</b>	FI Received on 18.4.2023
<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 Comment
<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**  
**MAY 2023**