

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/792

<u>Applicant</u>	Mr. CHAN Wai Ho represented by Mr. HUI Kwan Yee
<u>Site</u>	Government Land (GL) near Lot 840 in D.D. 28, Lung Mei, Tai Po, New Territories
<u>Site Area</u>	About 65.03m ²
<u>Land Status</u>	GL
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who claims himself as an indigenous villager of Lung Mei Village of Tai Po Heung as confirmed by the Indigenous Inhabitant Representative (IIR)¹, 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). The Site is currently paved and vacant.

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

Total Floor Area	:	195.09m ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

1.3 The Site is accessible via a local track and Tai Po Lung Mei Road connecting to Ting Kok Road (**Plan A-1**). The applicant proposes to connect the proposed development to an existing public sewer (**Plan A-2a**). The proposed Small House layout and sewerage connection proposal are shown in **Drawing A-1**.

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

- 1.4 In support of the application, the applicant has submitted the Application Form with attachments received on 19.1.2024 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** as summarized below:

- (a) the Site is a vacant land suitable for house development;
- (b) there is no other available land for development; and
- (c) there are similar existing Small House developments adjacent to the Site.

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. 31B) are not applicable.

4. Background

The Site is currently not subject to any active planning enforcement action.

5. 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**.

6. 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**.

7. Previous Application

There is no previous application on the Site.

8. Similar Applications

- 8.1 There have been 29 similar applications involving 18 sites for Small House development in the vicinity of the Site, including 20 falling wholly within “GB” zone and nine straddling “GB” and “V” zones, since the first promulgation of the Interim Criteria in 2000. 20 of them were approved and the remaining nine were rejected.
- 8.2 Among the 20 approved applications, 17 (No. A/NE-TK/211, 213, 226, 243, 275-278, 327-328, 344, 375, 392-393, 425, 473 and 476) were approved with conditions by the Committee between 2006 and 2013 before the Board’s formal adoption of a more cautious approach in considering applications for Small House development since August 2015. They were approved mainly on considerations 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 “V” zone at the time of consideration; complying with the TPG PG-No. 10; no significant adverse impacts on the surrounding areas; and/or being the subject of previously approved application(s). Three applications (No. A/NE-TK/580, 618 and 664) were approved between 2016 and 2019 after the Board’s formal adoption of a more cautious approach mainly on sympathetic consideration of being the subject of previously approved application(s). Application No. A/NE-TK/580 was also approved on the consideration that it was an infill development and no adverse landscape and environmental impacts were anticipated.
- 8.3 Applications No. A/NE-TK/258, 263, 273-274, 279, 559², 570-571³ and 660 were rejected by the Committee or the Board on review between 2009 and 2019 mainly for reasons of not being in line with the planning intention of the “GB” zone and TPB PG-No. 10; and/or setting of undesirable precedent for similar applications within the “GB” zone. The latter four applications (No. A/NE-TK/559, 570-571 and 660) were also rejected on the grounds of causing adverse landscape impacts on the surrounding areas; and land was still available within the “V” zone at the time of consideration.
- 8.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.
- 8.5 There is another application for a proposed house (NTEH – Small House) (No. A/NE-TK/793) within the same “GB” zone in the vicinity of the Site, which will be considered by the Committee at this meeting.

9. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 9.1 The Site is:
- (a) currently vacant and paved (**Plan A-4**);

² Application No. A/NE-TK/559 is the subject of Town Planning Appeal lodged by the applicant in 2016. The said appeal was dismissed by the Town Planning Appeal Board on 22.3.2017.

³ Applications No. A/NE-TK/570 and 571 are the subject of Town Planning Appeal lodged by the applicants in 2016. The appeals were dismissed by the Town Planning Appeal Board on 17.10.2017.

- (b) entirely within the ‘VE’ of Lung Mei and Tai Mei Tuk; and
- (c) accessible via a local track and Tai Po Lung Mei Road connecting to Ting Kok Road (**Plan A-1**).

9.2 The surrounding areas are predominantly rural in character comprising village houses, burial grounds and vacant land (**Plans A-3** and **A-4**). The village proper of Lung Mei and Tai Mei Tuk is about 10m to the west (**Plan A-2**). To its north is dense woodland within the “GB” zone (**Plan A-3**).

10. 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.

11. Comments from Relevant Government Departments

11.1 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 6.23 ha (equivalent to 249 Small House sites). The outstanding Small House applications are 37 ⁴ while the 10-year Small House demand forecast is 212.

⁴ Among the 37 outstanding Small House applications in Lung Mei and Tai Mei Tuk, 28 fall within the “V” zone and nine straddle or fall outside the “V” zone. For cases straddling or falling outside the “V” zone, three of them has obtained valid planning permission.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	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) (Plan A-2b).
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 village houses, burial grounds and dense woodland to the north.
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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) has no adverse comment on the application.
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 the existing landscape resources arising from the proposed use is not anticipated.
13.	Geotechnical impact?		✓	
14.	Local objections received from DO?		✓	

11.2 Comments from the following government departments have been incorporated in paragraph 11.1 above. Other detailed comments, if any, are at **Appendix V**.

- (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.

11.3 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);
- (c) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (d) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

12. Public Comment Received During Statutory Publication Period

On 26.1.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application (**Appendix VI**) mainly for reasons of being not in line with the planning intention of the “GB” zone; causing adverse traffic, environmental and drainage impact on the surrounding areas including Pat Sin Leng Country Park; and entailing incursion of Small House development into Government land.

13. Planning Considerations and Assessment

- 13.1 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. There is no strong planning justification in the submission for a departure from the planning intention of the “GB” zone.
- 13.2 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 37 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 of 249 in Lung Mei and Tai Mei Tuk, it is sufficient to accommodate the 37 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 since 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.
- 13.3 The Site, situated at the southern fringe of the “GB” zone, is currently vacant and paved. The surrounding areas are predominantly rural in character with village houses, burial grounds and dense woodland. The village proper of Lung Mei and Tai Mei Tuk is about 10m to the west. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse landscape impact is not anticipated, and DAFC has no strong view on the application from nature conservation point of view. 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.

- 13.4 There are 29 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 22 applications were considered between 2006 and 2013. Since the formal adoption of a more cautious approach by the Board in August 2015, four similar applications (No. A/NE-TK/559, 570-571 and 660) were rejected mainly for reasons of not being in line with the planning intention of the “GB” zone and TPB PG-No. 10; and land was still available within the “V” zone at the time of consideration. The planning circumstances of the current application are largely similar to these four rejected applications.
- 13.5 Regarding the public comment objecting to the application as detailed in paragraph 12 above, government departments’ comments and the planning assessments above are relevant.

14. Planning Department’s Views

- 14.1 Based on the assessments made in paragraph 13 and having taken into account the public comment mentioned in paragraph 12 above, 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 “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.
- 14.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.3.2028, 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**.

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 15.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 15.3 Alternatively, 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.

16. Attachments

Appendix I	Application Form with attachments received on 19.1.2024
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Relevant extracts of TPB PG-No. 10
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant government departments
Appendix VI	Public comment
Appendix VII	Recommended advisory clauses
Drawing A-1	Layout plan and 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 within the “V” zone of Lung Mei and Tai Mei Tuk for Small House development
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2024**