

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

**APPLICATION NO. A/NE-TK/793**

<b><u>Applicant</u></b>	Mr. LEE Mang Kan
<b><u>Site</u></b>	Lot 391 S.A in D.D. 28, Lung Mei, Tai Po, New Territories
<b><u>Site Area</u></b>	About 162.1m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<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, who claims himself as an indigenous villager of Sha Lo Tung Lei Uk Village<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 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 **Drawings A-1** and **A-2**.

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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 the subject of two previous applications (No. A/NE-TK/243 and 476) (**Plans A-1 and A-2a**) submitted by two different applicants for the same use, which were approved by the Rural and New Town Planning Committee (the Committee) in 2007 and 2013 respectively. Details of the previous applications are set out in paragraph 6 below.
- 1.5 In support of the application, the applicant has submitted an Application Form with attachments (**Appendix I**) which was received on 30.1.2024.

## **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**. The applicant states that the Site is the subject of a previously approved application (No. A/NE-TK/476) submitted by the preceding land owner (i.e. different applicant) for the same use, and similar considerations should be given by the Committee to the current application.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

## **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 Applications**

- 7.1 The Site is the subject of two previous applications (No. A/NE-TK/243 and 476) (**Plan A-2a**) submitted by different applicants for the same use, which were approved by the Committee in 2007 and 2013 respectively. The previous applications 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 “Village Type Development” (“V”) zone at the time of consideration; complying with TPB PG-No. 10; no significant adverse impacts on the surrounding areas; and being the subject of previously approved application (for No. A/NE-TK/476). The validity of the planning permission granted under the last application (No. A/NE-TK/476) was extended once until 8.11.2021, and the planning permission lapsed on 9.11.2021. Compared with the last previous application, the major development parameters and Small House footprint under the current application are the same.

- 7.2 Details of the previous applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.

## 8. **Similar Applications**

- 8.1 There have been 22 similar applications involving 12 sites for Small House development in the vicinity of the Site, including 15 falling wholly within “GB” zone and seven straddling both “GB” and “V” zones, since the first promulgation of the Interim Criteria in 2000. 15 of them were approved and the remaining seven were rejected.
- 8.2 Among the 15 approved applications, 12 (No. A/NE-TK/275-278, 327-328, 344, 375, 392-393, 425 and 473) were approved between 2009 and early 2015 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 similar to those set out in paragraph 7.1 above. 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 For Applications No. A/NE-TK/258, 263, 273-274, 279, 559<sup>2</sup> and 660, they were rejected by the Committee or the Board on review between 2009 and 2019 mainly on the grounds 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 two applications (No. A/NE-TK/559 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 V** 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/792) within the same “GB” zone in the vicinity of the Site, which will be considered by the Committee at this meeting.

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<sup>2</sup> 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.

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

9.1 The Site is:

- (a) currently covered with wild grass and partly occupied by some construction materials (**Plan A-4**);
- (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 connected to Ting Kok Road (**Plan A-1**).

9.2 The areas in the immediate neighbourhood of the Site mainly comprise existing Small Houses and approved Small House developments with works in progress (**Plan A-4**). The village proper of Lung Mei and Tai Mei Tuk is about 10m to the southeast (**Plan A-2**). To its further north and west are 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 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.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small		✓	<b><u>Land Required</u></b> - 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

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
	House demand forecast)?			House applications are 37 <sup>3</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> <ul style="list-style-type: none"> <li>- 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>).</li> </ul>
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> <li>- There is a general presumption against development within the “GB” zone.</li> <li>- Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view.</li> </ul>
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> <li>- The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character with village houses and dense woodland to the east and north respectively.</li> </ul>
6.	Within Water Gathering Grounds (WGGs)?		✓	<ul style="list-style-type: none"> <li>- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.</li> </ul>
7.	Environmental and Sewerage impact?		✓	<ul style="list-style-type: none"> <li>- 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.</li> </ul>
8.	Encroachment onto planned road networks and public works boundaries?		✓	

<sup>3</sup> Among the 37 outstanding Small House applications in Lung Mei and Tai Mei Tuk, 28 fall within the “V” zone and 9 straddle or fall outside the “V” zone. For cases straddling or falling outside the “V” zone, three of them have obtained valid planning approvals 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 the “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 involving 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 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.

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 6.2.2024, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

## 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 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.

13.3 The Site, situated at the southern fringe of the “GB” zone, is currently covered with wild grass and partly occupied by construction materials. The surrounding

areas are predominantly rural in character with village houses and dense woodland. The village proper of Lung Mei and Tai Mei Tuk is about 10m to the southeast. 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 as the Site is formed. 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 The Site is the subject of two previously approved applications (No. A/NE-TK/243 and 476) as set out in paragraph 7.1 above. It should be noted that these previous applications were submitted by different applicants and the last planning permission under Application No. A/NE-TK/476, which was granted in 2013, had already lapsed in 2021. Considering the Interim Criteria (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits. As for the subject application, sympathetic consideration could not be given as there are no specific circumstances to justify the case in that the Site is neither an infill site among existing NTEHs/Small Houses, nor the subject of Small House grant process at an advance stage. The proposed development is considered not in line with TPG PG-No. 10 in that there are no exceptional circumstances and strong planning grounds to justify the proposed development.
- 13.5 There are 22 similar applications involving 12 sites located in close proximity to the Site falling within/partly within the same “GB” zone (**Plan A-2a**), among which 17 applications were considered between 2009 and 2013. Since the formal adoption of a more cautious approach by the Board in August 2015, two similar applications (No. A/NE-TK/559 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 two rejected applications.

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

- 14.1 Based on the assessments made in paragraph 12, 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**

<b>Appendix I</b>	Application Form with attachments received on 30.1.2024
<b>Appendix II</b>	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
<b>Appendix III</b>	Relevant extracts of TPB PG-No. 10
<b>Appendix IV</b>	Previous applications
<b>Appendix V</b>	Similar applications
<b>Appendix VI</b>	Detailed comments from relevant government departments
<b>Appendix VII</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout plan submitted by the applicant
<b>Drawing A-2</b>	Sewerage connection proposal 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  
MARCH 2024**