

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

**APPLICATION NO. A/SK-PK/281**

- Applicant** : Mr. KONG Edmund Ming Ji represented by Mr. PANG Hing Yeun
- Site** : Lot 45 S.P in D.D. 213, Lung Mei, Sai Kung, New Territories
- Site Area** : About 163.4m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP)  
No. S/SK-PK/11
- Zonings** : “Green Belt” (“GB”) (about 103.6m<sup>2</sup> or 63%)  
“Village Type Development” (“V”) (about 59.8m<sup>2</sup> or 37%)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Lung Mei certified by the Indigenous Inhabitant Representative (IIR) of the village, seeks planning permission to build a NTEH (Small House) at the application site (the Site) (**Plans A-1 and A-2a**). The Site falls within an area zoned “GB” and “V” on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11. According to the Notes of the OZP for the “GB” zone, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and covered by vegetation.

1.2 Details of the proposed Small House development are as follows:

Gross 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 uncovered area of the Site is proposed to be circulation area for the Small House. Layout of the proposed Small House and the proposed septic tank are shown in **Drawing A-1**.

- 1.4 The Site is part of the subject of a previously approved application (No. A/SK-PK/167) for three NTEHs submitted by different applicants (**Plan A-2a**). Details of the previous application are set out in paragraph 6 below. Compared with the previous application, the development parameters of the proposed Small House at the Site are the same.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 8.2.2023 (Appendix I)
  - (b) Further Information (FI) received on 21.3.2023\* (Appendix Ia)
- \*accepted and exempted from publication and recounting requirements*
- 1.6 On 31.3.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant.

## **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** respectively. They can be summarised as follows:

- (a) the Site was granted with planning permission for Small House development in 2009 but the then applicant had not proceeded further his Small House application. The applicant, an indigenous villager of Lung Mei, later purchased the Site to exercise his rights for building a Small House in accordance with the Small House Policy. The Site is the only piece of land owned by the applicant that can be applied for a Small House;
- (b) due to the topography of Lung Mei, there is limited land in the village suitable for Small House development;
- (c) there are existing village houses in the vicinity of the Site and the proposed Small House is considered compatible with the surrounding development. There are also similar approved applications nearby such as application No. A/SK-PK/225 (**Plan A-2a**);
- (d) due to the small scale of the development, environmental impact on the surrounding area is not anticipated. No tree felling will be required as there are no trees at the Site; and
- (e) regarding the slope adjoining the Site near Lung Mei Tsuen Road, the applicant confirms that he has obtained family consent to use the Natural Terrain Hazard Study Report on the Site owned by the previous lot owner<sup>1</sup>, and has submitted a copy of the report in support of the current application.

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<sup>1</sup> The applicant claims that the previous lot owner was the applicant's uncle who was deceased.

### 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. 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 the Interim Criteria, which was revised on 7.9.2007, is at **Appendix II**.

### 5. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within Green Belt zone under Section 16 of the Town Planning Ordinance’ (the TPB Guidelines) are relevant to this application. The relevant assessment criteria are summarised in **Appendix III**.

### 6. Previous Application

6.1 The Site is part of the subject of a previous application (No. A/SK-PK/167) for three NTEHs submitted by different applicants, which was approved with conditions by the Committee on 18.12.2009 on the considerations that the application generally complies with the Interim Criteria and the relevant TPB Guidelines; there was a general shortage of land in meeting the demand for Small House development in the “V” zone of Lung Mei at the time of consideration; and the proposed development would not cause adverse landscape, environmental, ecological and geotechnical impacts on the surrounding areas. The permission was extended twice with validity up to 18.12.2017 and was partially commenced<sup>2</sup>. As compared with the previously approved application, the Site covers one of the three lots and the development parameters of the proposed Small House under application remain unchanged.

6.2 Details of the previous application are summarised at **Appendix IV** and its location is shown on **Plan A-2a**.

### 7. Similar Applications

7.1 There are four similar applications (No. A/SK-PK/104, 177, 185 and 225)<sup>3</sup> for

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<sup>2</sup> According to TPB Guidelines on Extension of Time for Commencement of Development (TPB PG-No. 35D), two of the three Small House developments are considered commenced as the applicants had accepted the offers of Small House applications issued by LandsD in 2016. For the remaining Small House (i.e. the Site of the current application), the planning permission for which had lapsed.

<sup>3</sup> The Small House developments of applications No. A/SK-PK/104 and 185 have been implemented, while those for applications No. A/SK-PK/177 and 225 covering the same site are considered commenced.

Small House developments within/straddling the same “V” and “GB” zones since the first promulgation of the Interim Criteria on 24.11.2000. All the applications were approved with condition(s) by the Committee between 2001 and 2015 mainly on the grounds of insufficient land within “V” zone to meet the demand for Small House development at the time of consideration, general compliance with the Interim Criteria and in line with TPB-PG No. 10, and no adverse impact on surrounding areas.

7.2 Details of the similar applications are summarised at **Appendix V** and their locations are shown on **Plan A-2a**.

## **8. The Site and Its Surrounding Areas (Plans A-1, A-2a and the photo on Plan A-3)**

8.1 The Site is:

- (a) currently vacant and covered by natural vegetation;
- (b) at the peripheral of the northern boundary of the “V” zone and located entirely within the village ‘environs’ (‘VE’) of Lung Mei; and
- (c) accessible via a local track leading to Lung Mei Tsuen Road to the north.

8.2 The surrounding areas have the following characteristics:

- (a) rural in character with existing village houses of Lung Mei to the west, south, and southeast of the Site including Phoenix Palm Villa and The Rock;
- (b) to the north and east is Lung Mei Tsuen Road and beyond which are dense woodland zoned “Conservation Area” (“CA”) and Ma On Shan Country Park to the further north; and
- (c) sites for Small House developments previously approved by the Committee and are considered commenced can be found to the immediate west, east, and southeast of the Site.

## **9. Planning Intentions**

9.1 The planning intention of “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9.2 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 summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?  - The Site  - Footprint of the proposed Small House	37%  57%	-  -	The remaining 63% in “GB”.  The remaining 43% in “GB”.
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small House	100%  100%	-  -	The Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Lung Mei.  The District Lands Officer/Sai Kung (DLO/SK), LandsD has no objection to the application.
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 Lung Mei: about 0.625ha (equivalent to 25 Small House sites). The number of outstanding Small House applications is six <sup>4</sup> while the 10-year Small House demand forecast is 19.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> Land available to meet Small House demand in Lung Mei: about 0.468ha (equivalent to 18 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “GB” zone?		✓	Over 50% of the footprint of the proposed Small House falls within the “V” zone.  The Director of Agriculture, Fisheries and Conservation (DAFC) advises that the Site is occupied by common vegetation and no mature tree on government land would be affected. He has no comment on the subject application.

<sup>4</sup> Among the six outstanding Small House applications, five fall within the “V” zone and one (the Site) falls outside/straddling the “V” zone.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
5.	Compatible with surrounding areas/developments?	✓		The Site is at the peripheral of the northern boundary of the “V” zone. There are existing Small Houses and similar applications for Small House developments approved by the Committee in the vicinity ( <b>Plan A-2a</b> ).
6.	Within WGG?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic Impact?	✓		The Commissioner for Transport (C for T) advises that the proposed Small House development should be confined within the “V” zone as far as possible. Notwithstanding that, she considers that the application can be tolerated on traffic grounds as it only involves the development of one Small House.
10.	Drainage Impact?		✓	The Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application from drainage maintenance viewpoint.
11.	Sewerage Impact?		✓	The Director of Environmental Protection (DEP) and CE/MS, DSD have no adverse comment on the application.
12.	Landscaping Impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no adverse comment on the application from landscape planning perspective.
13.	Geotechnical Impact?		✓	The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no adverse comment on the application.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
14.	Local objection conveyed by DO?		✓	The District Officer (Sai Kung), Home Affairs Department (DO(SK), HAD) has no comment on the application.

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

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

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

- (a) Chief Engineer (Works), HAD; and
- (b) Chief Highway Engineer/New Territories East, Highways Department.

## **11. Public Comments Received During Statutory Publication Period**

On 17.2.2023, the application was published for public inspection. Two public comments on the application were received during the statutory publication period, including one from Kadoorie Farm & Botanic Garden Corporation and the other from an individual (**Appendix VII**), opposing to the application mainly on the grounds the proposed development is not in line with the planning intention of “GB” zone, there are still land suitable for Small House development within the “V” zone, and approving the application would encourage further encroachment onto the buffer zone of the country park.

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

12.1 The application is for a proposed Small House development at the Site (163.4m<sup>2</sup>) which falls within an area zoned “GB” (103.6m<sup>2</sup> or 63%) and “V” (59.8m<sup>2</sup> or 37%) on the OZP. The proposed Small House development is always permitted within the “V” zone. It is however not in line with the planning intention of the “GB” zone which is 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, and there is a general presumption against development within this zone. Nevertheless, DAFC advises that he has no comment on the subject

application as the Site is occupied by common vegetation and no mature tree on government land would be affected by the proposed development.

- 12.2 The Site is currently vacant and covered with natural vegetation. The immediate vicinity of the Site is occupied by other existing Small Houses and sites of approved Small House developments (**Plans A-2a** and **A-3**). The proposed development is considered not incompatible with the surrounding uses. CTP/UD&L of PlanD has no adverse comment on the application from landscape planning perspective, as no significant adverse impact from the proposed Small House development is anticipated given that no tree felling would be required according to the applicant.
- 12.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the 'VE' of Lung Mei. According to DLO/SK of LandsD, the number of outstanding Small House applications for Lung Mei is six while the 10-year Small House demand forecast as at 31.12.2015 is 19. Based on the latest estimate by PlanD, about 0.468ha of land (equivalent to 18 Small House sites) is available within the "V" zone of Lung Mei. While the amount of 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 to consider applications for Small House developments since August 2015. Amongst others, in assessing whether there is a general shortage of land in meeting the Small House demand, the Board has put more weighting on the number of outstanding Small House applications as provided by LandsD. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, the majority of the footprint of the proposed Small House (57%) falls within "V" zone and the Site wholly falls within the 'VE'. The Site is located at the peripheral of the northern boundary of the "V" zone and separated from the dense woodland in the "CA" zone to the north by Lung Mei Tsuen Road, and there are existing Small Houses and sites of similar applications for Small House developments approved by the Committee in the vicinity. In addition, the Site is part of the subject of a previously approved application (No. A/SK-PK/167) for three NTEHs and to the immediate west of a similar application (No. A/SK-PK/225) for three NTEHs, of which the five Small House developments are considered commenced as the applicants had accepted the offers of Small House applications issued by LandsD in 2016. The Site can be considered as an infill development sandwiched between the commenced Small House developments to its immediate east and west, which is also in close proximity to the existing village cluster (**Plan A-2a**). In view of the above, sympathetic consideration may be given to the application.
- 12.4 As the proposed development is not expected to have significant adverse landscape, environmental, drainage, sewerage, traffic and geotechnical impacts, the proposed development is considered generally in line with TPB PG-No. 10. Other relevant government departments including DEP, CE/MS of DSD, CE/C of WSD, C for T, H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the application regarding the relevant technical aspects.
- 12.5 Other than the previously approved application at the Site, the Committee has



approved four similar applications for Small House developments within/straddling the same “V” and “GB” zones since the first promulgation of the Interim Criteria in 2000 (details in paragraphs 6 and 7 respectively). Approval of the current application is in line with the Committee’s previous decisions.

- 12.6 Regarding the public comments objecting to the application on grounds of not in line with the planning intention of “GB” zone, available land within the “V” zone, and encouraging further encroachment onto the buffer of country park, the departmental comments in paragraph 10 and the planning assessments in paragraphs 12.1 to 12.5 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, the 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 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 “Green Belt” 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; and
  - (b) land is still available within the “Village Type Development” (“V”) zone of Lung Mei for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures 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(s) 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 8.2.2023
<b>Appendix Ia</b>	FI received on 21.3.2023
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories
<b>Appendix III</b>	Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
<b>Appendix IV</b>	Previous Application
<b>Appendix V</b>	Similar Applications
<b>Appendix VI</b>	Comments from Relevant Government Departments
<b>Appendix VII</b>	Public Comments
<b>Appendix VIII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a and A-2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2023**