

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

**APPLICATION NO. A/I-MWF/31**

- Applicants** : LAM Ka Ho and LAM Ka Ki represented by LAM Ka Ho
- Site** : Lots No. 1040 s.B and 1040 s.C in D.D.1 MW, Tai Tei Tong Village, Mui Wo, Lantau
- Site Area** : 322 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Mui Wo Fringe Outline Zoning Plan (OZP) No. S/ I-MWF/10
- Zoning** : “Agriculture” (“AGR”) (about 62%) and  
“Village Type Development” (“V”) (about 38%)
- Application** : Proposed Houses (New Territories Exempted Houses (NTEHs) - Small Houses)

**1. The Proposal**

1.1 The applicants, who claimed to be indigenous villagers<sup>1</sup>, seek planning permission to build two proposed NTEHs (Small Houses) on the application site (the Site) in Tai Tei Tong Village, Mui Wo (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” and “V” on the approved Mui Wo Fringe OZP No. S/I-MWF/10. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ in “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of each of the two proposed NTEHs (Small Houses) are as follows:

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

1.3 Layouts of the two proposed Small Houses (including septic tanks) are shown on **Drawings A-1 and A-2** respectively. The applicants indicate that the uncovered areas of the Site are proposed to be used as a garden.

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<sup>1</sup> As advised by District Lands Officer/Islands, Lands Department (DLO/Is, LandsD), the applicants have claimed themselves as indigenous villagers of Tai Tei Tong Village but their statuses have not yet been verified.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with attachments received on 5.8.2019 and (**Appendix I**) supplementary information
- (b) Further Information (FI) received on 22.8.2019 (accepted and (**Appendix Ia**) exempted from publication)
- (c) FI received on 17.9.2019 (accepted and exempted from (**Appendix Ib**) publication)

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the Application Form and FIs at **Appendices I to Ib** respectively. They can be summarized as follows:

- (a) the available land in Tai Tei Tong Village for development of Small House is close to saturation. Also, the available land for Small House development is limited due to the recent judicial review of the Small House Policy which has led to Lands Department's suspension in processing Small House application on government land;
- (b) the Lands Department had previously approved Small House grants for several lots which were located outside the village environs of Tai Tei Tong Village in the 1970s/80s. It is hoped that the Board would give similar consideration to the subject application based on the precedent cases;
- (c) the applicants confirm that septic tanks would be adopted for sewage treatment of the proposed houses. The applicants are also committed to connect the proposed Small Houses to the public sewerage system when it is available in future; and
- (d) the applicants claim that they have applied to District Officer/Islands, Home Affairs Department (DO/Islands, HAD) and CLP Power Hong Kong Limited to alter the alignment of the existing footpaths (**Plan A-2a**) and location of the existing lamp pole and electricity pipeline that would be affected by the proposed Small Houses so that the provision of such infrastructure would not be disrupted.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicants are the "current land owners" of their respective lots. Detailed information would be deposited at the meeting for Members' inspection.

## **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

**5. Previous Application**

There is no previous application at the Site.

**6. Similar Application**

There is no similar application within the same “AGR” zone.

**7. The Site and Its Surrounding Areas (Plans A-1 to A-3 and site photos on Plans A-4)**

7.1 The Site is:

- (a) flat and an active farmland;
- (b) partly encroaching onto existing footpaths;
- (c) located in proximity to the village cluster of Tai Tei Tong Village; and
- (d) accessible via an village road and a footpath.

7.2 The surrounding areas have the following characteristics:

- (a) mainly surrounded by agricultural land, scattered tree groups and village houses;
- (b) to the immediate west is an active agricultural land;
- (c) to the northeast are some temporary structures; and
- (d) to the further south (about 40m) is the village cluster of Tai Tei Tong Village in the “V” zone.

**8. Planning Intentions**

8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

8.2 The planning intention of the “V” zone is to designate both existing recognise 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. Comments from Relevant Government Departments**

9.1 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.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> <li>- The Site <ul style="list-style-type: none"> <li>i. Lot No. 1040 s.B</li> <li>ii. Lot No. 1040 s.C</li> </ul> </li> <li>- Footprints of the proposed Small Houses <ul style="list-style-type: none"> <li>i. Lot No. 1040 s.B</li> <li>ii. Lot No. 1040 s.C</li> </ul> </li> </ul>	<p>32.7%</p> <p>42.1%</p> <p>50.7%</p> <p>53.3%</p>	<p>67.3%</p> <p>57.9%</p> <p>49.3%</p> <p>46.7%</p>	<p>The Site and the footprints of the proposed Small Houses fall partly within the “V” zone and partly within “AGR” zone.</p>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- The Site <ul style="list-style-type: none"> <li>i. Lot No. 1040 s.B</li> <li>ii. Lot No. 1040 s.C</li> </ul> </li> <li>- Footprints of the proposed Small Houses <ul style="list-style-type: none"> <li>i. Lot No. 1040 s.B</li> <li>ii. Lot No. 1040 s.C</li> </ul> </li> </ul>	<p>-</p> <p>5.7%</p> <p>-</p> <p>-</p>	<p>100%</p> <p>94.3%</p> <p>100%</p> <p>100%</p>	<p>District Lands Officer/Islands, Lands Department (DLO/Is, LandsD) advises that the footprints of the proposed Small Houses fall outside the ‘VE’ of any recognised village.</p>
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p>		<p>✓</p>	<p><u>Land Required</u></p> <ul style="list-style-type: none"> <li>- Land required to meet the Small House demand in Tai Tei Tong Village: about 3.85 ha (equivalent to 154 Small House sites). The outstanding Small House applications and 10-year Small House demand forecast for Tai Tei Tong Village are 23 and 131 respectively.</li> </ul> <p><u>Land Available</u></p> <ul style="list-style-type: none"> <li>- Land available to meet the Small House demand within the “V” zone of Tai Tei Tong Village: about 0.83ha (equivalent to 33 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
	<p>Sufficient land in “V” zone to meet outstanding Small House application?</p>	<p>✓</p>		
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		<p>✓</p>	<ul style="list-style-type: none"> <li>- The Director of Agriculture, Fisheries and Conservation (DAFC) advises that the Site is now actively used for farming activities. The subject lots possess potential for agricultural rehabilitation, considering the accessibility and availability of water source.</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Therefore, the application is not supported from agriculture perspective.
5.	Compatible with surrounding area/ development?	✓		The proposed Small Houses are not incompatible with the surrounding rural setting and environment dominated by agricultural land and village houses ( <b>Plan A-3</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	The Site encroaches onto existing footpaths as shown on <b>Plan A-2a</b> .
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services has no in-principle objection to the application. The applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?		✓	Since the applicants only seek planning approval for two proposed houses at the Site, the Commissioner for Transport considers that the application can be tolerated from the traffic engineering point of view.
10.	Drainage impact?		✓	The Chief Engineer/Hong Kong & Islands, Drainage Services Department has no comment on the proposed Small House development.
11.	Sewerage impact?		✓	The Director of Environmental Protection has no objection to the application.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> <li>- The Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the application from the landscape planning perspective.</li> <li>- The Site is currently used for agriculture and no existing tree is observed within the Site. The Site is situated in a rural inland</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>landscape character surrounded by village houses and shrubland with individual tree groups scattered within the area. The proposed development is not incompatible with the surrounding environment.</p> <p>- In consideration of the limited space within the Site, implementation of effective landscape treatment to enhance public realm is not practicable. It is considered not necessary to impose a landscape condition should the application be approved by the Board.</p>
13.	Local objections conveyed by DO?		✓	

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Details of comments from government departments are at **Appendix V**.

- (a) District Lands Officer/Islands, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Director of Fire Services;
- (f) Chief Engineer/Construction, Water Supplies Department;
- (g) Director of Agriculture, Fisheries and Conservation;
- (h) Chief Engineer/Construction, Water Supplies Department;
- (i) Head of Sustainable Lantau Office, Civil Engineering and Development Department; and
- (j) District Officer (Islands), Home Affairs Department.

9.3 The following government departments have no comment on the application:

- (a) Chief Engineer/Consultants Management, Drainage Services Department;
- (b) Chief Engineer/Hong Kong & Islands, Drainage Services Department; and
- (c) Chief Highway Engineer/New Territories East, Highways Department.

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

On 13.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, five public comments were received (**Appendix VI**). Kadoorie Farm and Botanic Garden, Hong Kong Bird Watching Society, World Wide Fund – Hong Kong and Designing Hong Kong Limited and an individual raise objection to the application mainly on the grounds that the proposed development is not in line with the

planning intention of “AGR” zone; approval of the application would set undesirable precedent to future similar applications and the proposed Small Houses should be located close to the village proper.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for development of two Small Houses. Although about half of the footprints of the proposed Small Houses fall within the “V” zone, majority of the Site fall within the “AGR” zone. The proposed development is not in line with the planning intention of the “AGR” zone which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC advises that the Site is now actively used for farming activities and possesses potential for agricultural rehabilitation. As such, he does not support the application from the agriculture perspective.
- 11.2 Regarding the Interim Criteria (**Appendix II**), the footprints of the proposed Small Houses fall entirely outside the ‘VE’ of Tai Tei Tong Village whereas more than 50% of the footprints fall within the “V” zone (**Plan A-2a**). According to DLO/Is, LandsD’s, the total number of outstanding Small House applications for Tai Tei Tong Village is 23. As advised by the Indigenous Inhabitant Representative, the 10-year Small House demand forecast for Tai Tei Tong Village is 131. As such, the total estimated Small House forecast for the village is 154 (or equivalent to about 3.85ha of land). According to the latest estimate by PlanD, about 0.83 ha of land (equivalent to 33 Small House sites) are available in the “V” zone of Tai Tei Tong Village for Small House development (**Plan A-2b**). While land available within the “V” zone is insufficient to fully meet the future Small House demand, it should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, 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.
- 11.3 The Site is situated in an area of rural landscape character surrounded by agricultural land, scattered tree groups and village houses. The proposed Small Houses are considered not incompatible with the surrounding environment (**Plans A-3 and A-4**). Relevant government departments have no adverse comment on or objection to the application. However, as the Site is actively used for farming activities and possesses potential for agricultural rehabilitation, approval of the application would set an undesirable precedent to encourage similar applications involving active agricultural land within the “AGR” zone. The cumulative effect of approving such applications will result in loss of suitable land for agricultural purposes in the area.
- 11.4 Regarding the objections received from the public as detailed in paragraph 10, the planning assessments as set out in paragraphs 11.1 to 11.4 above are relevant.

## 12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the 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 “AGR” zone in the Mui Wo Fringe area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from such planning intention;
- (b) land is still available within the “V” zone of Tai Tei Tong Village where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services; and
- (c) approval of the application would set an undesirable precedent to encourage similar applications involving active agricultural land within the “AGR” zone. The cumulative effect of approving such applications will result in loss of suitable land for agricultural purposes in the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.10.2023, 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 condition of approval and advisory clauses are also suggested for Members' reference:

### Approval Condition

The provision of septic tank, as proposed by the applicants, at a location to the satisfaction of the Director of Lands or of the Town Planning Board.

### Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

## 13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.

13.2 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.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.



**14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 5.8.2019 and supplementary information
<b>Appendix Ia</b>	Further Information received on 22.8.2019
<b>Appendix Ib</b>	Further Information received on 17.9.2019
<b>Appendix II</b>	Interim Criteria for Consideration of Application for New Territories Exempted House /Small House in New Territories
<b>Appendix III</b>	Detailed Comments from Relevant Government Departments
<b>Appendix IV</b>	Public Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawings A-1 to A-2</b>	Layout Plans
<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 Tai Tei Tong Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2019**