

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

**APPLICATION NO. A/NE-TK/663**

<b><u>Applicant</u></b>	Mr. LEE Yuk Ming Michael represented by Ratio Architecture and Planning Company Limited
<b><u>Site</u></b>	Lot 612 S.D in D.D. 28, Tai Mei Tuk, Tai Po, New Territories
<b><u>Site Area</u></b>	About 97.6 m <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 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 to be an indigenous villager of Tai Po Mei, Tai Po<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**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)’ use within “GB” zone requires planning permission from the Town Planning Board (the Board).

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

Total floor area	: 195.09m <sup>2</sup>
No. of storeys	: 3
Building height	: 8.23m
Roofed over area	: 65.03m <sup>2</sup>

Layout of the proposed development is shown on **Drawing A-1**.

1.3 In support of the application, the applicant has submitted an application form with attachment on 4.1.2019 (**Appendix I**). The applicant has indicated that the proposed development will be connected to public sewer. However, no sewerage connection proposal has been submitted.

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<sup>1</sup> District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the eligibility of Small House grant has yet to be ascertained.

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

The justifications put forth by the applicant in support of the application as mentioned in Part 9 of the application form at **Appendix I** are summarized as follows:

- (a) the applicant is an indigenous villager of Tai Po Mei of Tai Po Heung and had submitted a Small House application to District Lands Officer/Tai Po, LandsD;
- (b) the application complies with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the Site falls entirely within the village 'environs' ('VE') and there is general shortage of land in meeting the demand of Small House development in the "Village Type Development" ("V") zone;
- (c) the proposed Small House is compatible with the existing village character. Village houses of Tai Mei Tuk are located to the immediate west and south of the Site, which is flat, hard-paved and accessible by a local track leading to Ting Kok Road. No major site formation works or tree felling is required. As such, no topographic constraint, no adverse landscape, visual and environmental impacts will be anticipated. The "Report on Existing Ground Situation for Proposed Small House" attached in Appendix I of the application form conducted by Authorized Land Surveyor demonstrates that the Site and the footprint of the proposed Small House will not encroach onto the pond;
- (d) the proposed development would unlikely have adverse drainage and sewerage impacts as stormwater drainage system is proposed to cater for the runoff generated and public sewerage connection is available in the vicinity of the Site; and
- (e) there are similar planning permissions granted for Small House development in the vicinity of the Site within the same "GB" zone.

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

The applicant is the sole "current land owner" of the lot. Detailed information would be deposited at the meeting for Members' inspection.

## 4. **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' is relevant to this application. The relevant assessment criteria are summarised as follows:

- (a) there is a general presumption against development in the "GB" zone;
- (b) applications for new development in "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for NTEH with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to

existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;

- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

## 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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

## 6. Previous Application

There is no previous application at the Site.

## 7. Similar Applications

- 7.1 Within the same “GB” zone, there are 81 similar applications (including 65 within “GB” zone only and 16 straddling on both “GB” and “V” zones) (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. Out of the 81 similar applications, 48 cases were approved and 33 were rejected.
- 7.2 Out of the 33 rejected applications, five of them (No. A/NE-TK/258, 263, 273, 274 and 279) were rejected by the Committee or the Board on review in 2009 mainly for reasons of not complying with the Interim Criteria and the TPB PG-No. 10 for development within “GB” zone in that they would likely involve site formation and slope stabilisation works resulting in clearance of natural vegetation and damage of existing landscape of the surrounding area. Subsequently, the concerned Small Houses were approved under applications No. A/NE-TK/327, 328, 344, 392 and 393 between 2010 and 2012 mainly because the applicants had submitted Landscape Impact Assessment Report, Geotechnical Planning Review Report and Natural Terrain Hazard Study Report to demonstrate that no cutting of slopes and no felling

of trees on site or in the adjacent woodland would be required, and thus the proposed development would not cause adverse geotechnical or landscape impacts on the surrounding area.

- 7.3 For the remaining 28 rejected applications (No. A/NE-TK/372, 401, 426, 443, 444, 486 – 493, 519, 520, 524, 555, 557, 558, 559\*, 570\*, 571\*, 577, 578, 598\*, 622, 635 and 660), they were rejected by the Committee/the Board on review between 2011 and 2018 mainly for reasons of being not in line with the planning intention of “GB” zone; and/or not complying with the Interim Criteria and TPB PG-No. 10 in that the applicants failed to demonstrate that the proposed Small House would not cause adverse landscape, sewage, water quality and/or geotechnical impacts on the surrounding areas. Moreover, the proposed Small House footprint under applications No. A/NE-TK/372, 443, 444, 519 and 520 fell outside both the “V” zone and the village ‘environs’ (‘VE’). Applications No. A/NE-TK/555, 557, 558, 559, 570, 571, 577, 578, 598, 622, 635 and 660 were also rejected as land was still available within the “V” zone for Small House development.
- 7.4 There were 36 applications (No. A/NE-TK/140, 177, 179, 192, 204, 211, 213, 217, 226, 243, 259 – 262, 275 – 278, 294, 362, 363, 367, 373, 375, 419, 425, 440, 449, 450, 473, 476, 521, 522, 531, 540 and 545) approved with conditions by the Committee between 2002 and April 2015 before the Board’s adoption of a more cautious approach in approving applications for Small House development in August 2015. These applications were approved mainly on the considerations of generally in compliance with the Interim Criteria in that the proposed Small House footprint fell mostly within the ‘VE’; there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned village at the time of consideration; no significant adverse impact on the surrounding areas; and/or being the subject of previously approved application. Although some proposed Small Houses under Application No. A/NE-TK/204 (applied for 37 Small Houses) were not in line with the Interim Criteria in that less than 50% of their footprints fell within the ‘VE’, the application was approved on sympathetic consideration in that planning permission for Small Houses had previously been granted by the Board in 2000 before the first promulgation of the Interim Criteria on 24.11.2000 and the related Small House grant applications had been approved by LandsD in 2001.
- 7.5 After the Board’s adoption of a more cautious approach, six applications (No. A/NE-TK/573, 580, 582, 585, 618 and 654) were approved between 2016 and 2018 on sympathetic considerations in that the site was the subject of previously approved application (No. A/NE-TK/580, 582, 618 and 654); the proposed house was located in close proximity to the existing village cluster (No. A/NE-TK/573, 582 and 585); and the processing of Small House land grants were at an advanced stage (No. A/NE-TK/618 and 654).
- 7.6 For the remaining approved application (No. A/NE-TK/432), it was the subject of a Town Planning Appeal (No. 5/2014) allowed by the Town Planning Appeal Board on 22.10.2015 mainly on considerations of the unique characteristics of the appeal site, i.e. located on agricultural land not covered by dense vegetation; well separated from the edge of the Pat Sin Leng Country Park; close to adjacent Small House

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\* Applications No. A/NE-TK/559, 570, 571 and 598 are the subject of Town Planning Appeals lodged by the respective applicants in 2016 and 2017. The Appeals of applications No. A/NE-TK/559, 570 and 571 were dismissed by the Town Planning Appeal Board on 22.3.2017 and 17.10.2017 respectively. The decision for the Appeal of application No. A/NE-TK/598 is pending.

developments; and being able to be connected to public sewer.

7.7 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## 8. **The Site and its Surrounding Areas** (Plans A-1, A-2a and photos on Plans A-3 and A-4)

8.1 The Site is:

- (a) vacant and partly hard-paved;
- (b) located at the eastern fringe of Tai Mei Tuk;
- (c) entirely within the ‘VE’ of Tai Mei Tuk and Lung Mei; and
- (d) connected via a paved driveway to Ting Kok Road to the south.

8.2 The surrounding areas are predominantly rural in character comprising of scattered tree groups, woodland patches and village houses. Village clusters are mainly found to the west of the Site (**Plan A-2a**).

## 9. **Planning Intention**

The planning intention of the “GB” zone is primarily for defining the limit 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 Small House - Application site	- -	100% 100%	- Both the Site and the Small House footprint fall entirely within the “GB” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> <li>- Footprint of the Small House</li> <li>- Application site</li> </ul>	100%	-	<ul style="list-style-type: none"> <li>- Both the Site and the Small House footprint fall entirely within the 'VE' of Lung Mei and Tai Mei Tuk (<b>Plan A-1</b>).</li> <li>- The District Lands Officer/Tai Po, LandsD (DLO/TP, LandsD) has no objection to the application.</li> </ul>
3.	<p>Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p>		✓	<ul style="list-style-type: none"> <li>- Land required to meet Small House demand: about 7.9 ha (equivalent to 316 Small House sites). The outstanding Small House applications are 69<sup>2</sup> while the 10-year Small House demand forecast is 247.</li> </ul>
	<p>Sufficient land in "V" zone to meet outstanding Small House applications?</p>	✓		<ul style="list-style-type: none"> <li>- Land available to meet Small House demand within the "V" zone of the villages concerned: about 1.87 ha (equivalent to about 74 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	<p>Compatible with the planning intention of "GB" zone?</p>		✓	<ul style="list-style-type: none"> <li>- There is 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 given that the Site is largely paved and the proposed Small House would not encroach upon the adjoining pond.</li> </ul>
5.	<p>Compatible with surrounding area/development?</p>	✓		<ul style="list-style-type: none"> <li>- The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character comprising of scattered tree groups, woodland patches and village houses.</li> </ul>
6.	<p>Within Water Gathering Ground (WGG)?</p>		✓	
7.	<p>Encroachment onto planned road networks and public works boundaries?</p>		✓	

<sup>2</sup> Among the 69 outstanding Small House applications, 34 of them fall within the "V" zone, 33 straddle or outside the "V" zone and 2 cannot be classified (i.e. Small House plans of 2 sites have not been provided by the applicants and the locations of such Small Houses are yet to be confirmed by LandsD). For those 33 applications straddling or being outside the "V" zone, 8 of them have obtained valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
8.	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.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T), in general, has reservation on the application but considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?	✓		- DEP has no objection to the application provided that the applicant connects the proposed Small House to the public sewer at his own cost and obtains written consents from adjacent lot owners for laying and maintaining sewage pipes.
12.	Landscape impact?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the application from the landscape planning point of view as vegetation clearance had been carried out gradually within the Site and its immediate surroundings since 2011. Approval of the application would encourage similar site modification prior to approval and similar developments resulting in further encroachment onto the "GB" zone, and the cumulative effect of approving such applications would result in degradation of landscape character and against the planning intention of "GB" zone. - should the application be approved,

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				in view of that there is no adequate space for meaningful landscaping to benefit the public realm, no landscape condition can be imposed.
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix IV**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Agriculture, Fisheries and Conservation;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (h) Director of Fire Services; and
- (i) Director of Electrical and Mechanical Services.

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

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

## **11. Public Comments Received During Statutory Publication Period (Appendix V)**

On 11.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, seven public comments from local groups, the Indigenous Inhabitant Representative (IIR) of Tai Mei Tuk and other individuals were received objecting to the application mainly on the grounds of being incompatible with the surrounding area; polluting the adjoining ponds; setting an undesirable precedent; sufficient land being available within “V” zone; and causing adverse air quality, landscape, ecological, environmental and sewage impacts.

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

12.1 The Site falls within an area entirely zoned “GB” (**Plan A-2a**). The proposed development is not in line with the planning intention of “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. DAFC has no strong view on the application from nature conservation point of view given that the Site is largely paved and the proposed Small House would not encroach upon the adjoining pond.

- 12.2 According to DLO/TP, LandsD's record, the total number of outstanding Small House applications for Lung Mei and Tai Mei Tuk is 69 while the 10-year Small House demand forecast for the concerned villages is 247. Based on the latest estimate by the PlanD, about 1.87 ha of land (equivalent to about 74 Small House sites) are available within the "V" zone of Lung Mei and Tai Mei Tuk. As the proposed Small House footprint entirely falls within the 'VE' of the concerned villages, DLO/TP, LandsD has no objection to the application.
- 12.3 The Site, located at the eastern fringe of Tai Mei Tuk, is vacant and partly hard-paved. The surrounding areas are predominantly rural in character comprising of scattered tree groups, woodland patches and village houses. Village clusters are mainly found to the west of the Site (**Plan A-2a**). CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective as vegetation clearance had been carried out gradually within the Site and its immediate surroundings since 2011. The proposed development, if approved, would encourage similar site modification prior to approval. In addition, approval of the application would encourage similar developments resulting in further encroachment onto the "GB" zone. The cumulative effect of approving such applications would result in degradation of landscape character and against the planning intention of "GB" zone. C for T in general has reservation on the application but considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds.
- 12.4 DEP has no objection to the application provided that the applicant connects the proposed Small House to the public sewer at Tai Mei Tuk Village at his own cost and obtains written consents from adjacent lot owners for laying and maintaining sewage pipes. However, the applicant has not provided any sewerage connection proposal nor owners' consents of the concerned lots. Other relevant Government departments including CE/MN and CE/CM of DSD, CE/C of WSD, PM/N and H(GEO) of CEDD, CHE/NTE of HyD and D of FS have no objection to or adverse comment on the application.
- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint is located within the 'VE' of Lung Mei and Tai Mei Tuk. Whilst land available within the "V" zone for Small House development (about 1.87 ha or equivalent to 74 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 69 outstanding Small House applications. 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.

- 12.6 As shown on **Plan A-2a**, there are 19 similar applications in close vicinity of the Site. A total of 11 applications (No. A/NE-TK/177, 179, 204, 294, 419, 449, 521, 522, 531, 540 and 545) were approved with conditions between 2004 and April 2015 before a more cautious approach in approving applications for Small House development was adopted by the Board in August 2015. After the adoption of a more cautious approach, four applications (No. A/NE-TK/573, 582, 585 and 654) were approved from 2016 to 2018 mainly on sympathetic considerations in that the proposed houses were located in close proximity to the existing village cluster; no adverse landscape and/or environmental impacts were anticipated (No. A/NE-TK/573 and 654); and the sites of Applications No. A/NE-TK/582 and 654 were the subjects of previous approvals. For the remaining four applications (No. A/NE-TK/401, 577, 622 and 635), they were rejected by the Committee or the Board on review between 2012 and 2018 mainly for the reasons of not being in line with the planning intention of the “GB” zone; not complying with the Interim Criteria and TPB PG-No. 10 in view of adverse landscape and geotechnical impacts on the surrounding areas; and/or land still being available within the “V” zone for Small House development. The current application is similar to the above rejected cases in terms of not being in line with the planning intention of the “GB” zone and land still being available within the “V” zone for Small House development.
- 12.7 Regarding the public comments objecting to the application mainly on the grounds of being incompatible with the surroundings; polluting the adjoining ponds; setting an undesirable precedent; and causing adverse air quality, landscape, ecological, environmental and sewage impacts, the planning assessments and comments of Government departments 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 does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “Green Belt” (“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 “Village Type Development” (“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 “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 22.2.2023, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission and implementation of sewerage 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 VI**.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses 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**

Appendix I	Application form and attachments received on 4.1.2019
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant Government departments
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within the "V" Zone
Plan A-3	Aerial photo
Plan A-4	Site photo