

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/663

- Applicant** : Mr. SUNG Yan Keung John
- Site** : Lot 1760 S.D in D.D. 76, Ma Mei Ha Leng Tsui, Fanling, New Territories
- Site Area** : 195.2 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, who claimed to be an indigenous villager¹, seeks planning permission to build a proposed NTEH (Small House) on the application site (the Site) in Ma Mei Ha Leng Tsui, Fanling (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. 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)’ within “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed NTEH (Small House) are as follows:

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

Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as garden of the proposed Small House.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Wo Hop Shek of Fanling Heung. He is prima facie eligible to apply for Small House grant.

- 1.3 The Site is the subject of a previous application (No. A/NE-LYT/539) for the development of a Small House submitted by same applicant as the current application which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 25.4.2014. The planning permission lapsed on 26.4.2018. Compared with the previous application, the site area and major development parameters including the layout of the proposed Small House under the current application generally remain the same.
- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received on 27.4.2018.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 9 of the Application Form in **Appendix I**. They can be summarized as follows:

- (a) the applicant is an indigenous villager of Wo Hop Shek, Fanling and is entitled for construction of a Small House under the Small House Policy;
- (b) the Site falls within the village ‘environs’ (‘VE’) of Ma Mei Ha Leng Tsui and Leng Pei Tsuen, Fanling;
- (c) there is a shortage of Government land in the “Village Type Development” (“V”) zone of Wo Hop Shek in meeting Small House demand;
- (d) the proposed Small House development would not cause adverse environmental and drainage impacts; and
- (e) the applicant was asked by DLO/N, LandsD to submit planning application for the Small House development.

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 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

- 5.1 The Site is the subject of a previous application (No. A/NE-LYT/539) for the development of a Small House submitted by same applicant as the current application. The application was approved by the Committee on 25.4.2014 mainly on the considerations that the application generally complied with the Interim Criteria in that

more than 50% of the footprint of the proposed Small House fell within the 'VE' and there was a general shortage of land within the "V" zone at the time of consideration; the proposed Small House development was not incompatible with the surrounding rural environment; and the proposed development was not expected to have significant adverse impacts on the surrounding area. The planning permission lapsed on 26.4.2018. Compared with the previous application, the site area and major development parameters including the layout of the proposed Small House under current application generally remain the same.

- 5.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 49 similar applications in the vicinity of the Site for Small House development within/partly within the "AGR" zone in Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. Except application No. A/NE-LYT/267 which was rejected by the Committee in September 2003 as it fell entirely outside both the "V" zone and the 'VE' of a recognized village, all the other 48 similar applications involving 42 sites were approved with conditions by the Committee between April 2003 and May 2018. These applications were approved mainly on the considerations that the applications complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the 'VE' and there was a general shortage of land within the "V" zone of the same village in meeting the Small House demand; the proposed Small House developments were not incompatible with the surrounding rural and village environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area.
- 6.2 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.
- 6.3 For Members' information, applications No. A/NE-LYT/653 to 661 for proposed houses (NTEHs – Small Houses) to the northwest of the Site (**Plan A-2a**) will be considered by the Committee in the same meeting.

7. The Site and Its Surrounding Area (**Plans A-1, A-2a and A-2b, A-3 and A-4**)

- 7.1 The Site is:

- (a) flat and vacant;
- (b) located close to the village proper of Mai Mei Ha Leng Tsui (**Plan A-2a**); and
- (c) not accessible by vehicular access.

- 7.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by village houses, temporary structures, active/fallow agricultural land, tree groups and vacant land;

- (b) surrounded by village houses under construction, and vacant land with applications approved by the Committee (**Plan A-2a**);
- (c) to the northeast is the existing village proper of Ma Mei Ha Leng Tsui; and
- (d) to the further west is a site zoned “Government, Institution or Community” on the OZP which is used by ‘Life Building Centre’ (生命導向中心).

8. Planning Intention

The planning intention of the “AGR” zone in Lung Yeuk Tau and Kwan Tei South area 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.

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.	Within “V” zone? - The Site - Footprint of the proposed Small House	- -	100% 100%	The Site and footprint of the proposed Small House fall entirely within “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.
3.	Sufficient land in “V” zone to satisfy outstanding Small House application and 10-year Small House demand?		✓	- Land required to meet the Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4.4 ha (equivalent to 176 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 44 while the 10-year Small House demand forecast for the same village cluster is 132. - Land available to meet 10-year Small

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				House demand within the “V” zone in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 1.01 ha (equivalent to 40 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) states that active agricultural activities are found in the vicinity of the Site and agricultural infrastructure such as road access and water source is available. The application is not supported from the agriculture point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The proposed Small House is not incompatible with the surrounding rural setting and environment dominated by village houses and active/fallow agricultural land (Plan A-2a).
6.	Within Water Gathering Grounds (WGGs)?		✓	
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. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.
9.	Traffic impact?	✓		<p>- The Commissioner for Transport (C for T) has reservation on the application and advises 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 impact could be substantial.</p> <p>- Notwithstanding the above, the</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				application involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> - The Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning point of view. - the Site is located in an area of rural landscape character which predominantly comprises village houses, farmlands and tree groups. The proposed Small House is not incompatible with the surrounding environment. The Site is vacant and no significant vegetation or trees are found within the Site. Significant landscape impact arising from the developments is not expected. - An approval condition on the submission and implementation of landscape proposal is recommended.
13.	Local objections conveyed by DO?	✓		District Officer (North) (DO(N)) advises that he has consulted the locals. The Chairman of Fanling District Rural Committee (FDRC) and the Indigenous Inhabitant Representative of Leng Tsui have no comment on the application while the Resident Representative of Leng Tsui objects to the application.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 4.5.2018, 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**). A North District Council member supports the application as it can provide convenience to the villagers, whereas the Chairmen of FDRC and Sheung Shui District Rural Committee indicate no comment on the application. The remaining comments submitted from the Designing Hong Kong Limited and an individual raise objection to the application mainly on the grounds that the proposed Small House is not in line with the planning intention of “AGR” zone; land is still available in “V” zone of Ma Mei Ha Tsuen and Leng Pei Tsuen; the Small House development is not for the genuine demand of indigenous villagers; and approval of the application will set an undesirable precedent for similar applications in the area.

11. Planning Considerations and Assessments

11.1 The Site falls within an area zoned “AGR” on the OZP. The proposed Small House 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 does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation.

11.2 The application is a cross-village Small House application. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 44 while the 10-year Small House demand forecast for the same village cluster is 132. According to the latest estimate by PlanD, a total of about 1.01 ha (equivalent to 40 Small House sites) of land are available within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Ma

Mei Ha Leng Tsui and Leng Pei Tsuen.

- 11.3 The Site is flat and vacant (**Plans A-2a and A-4**). The village proper of Ma Mei Ha Leng Tsui is located to the northeast and there are approved Small House applications in the vicinity of the Site. The proposed Small House is not incompatible with the surrounding rural setting dominated by village houses, temporary structures, active/fallow agricultural land, tree groups and vacant land. Significant adverse landscape impact arising from the proposed development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view. C for T has reservation on the application and considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves one Small House, it could be tolerated. Other Government departments consulted, including DEP, CE/MN of DSD and D of FS, have no adverse comment on or no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen (**Plan A-2a**) and land available within the “V” zone is insufficient to meet the 44 outstanding Small House applications and the future Small House demand forecast of 132 (in total about 4.4 ha or equivalent to 176 Small House sites). It is noted that there are new Small Houses under construction and approved Small House applications at different stages of development nearby, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Besides, the Site is the subject of a previous application (No. A/NE-LYT/539) for Small House development approved by the Committee on 25.4.2014.
- 11.5 There are 49 similar applications for Small House development in the vicinity of the Sites and 48 of them were approved with conditions by the Committee between 2003 and 2018 (**Plan A-1**) mainly on the considerations that the applications complied with the Interim Criteria; the proposed Small House developments were not incompatible with the surrounding rural and village environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. The only rejected application (No. A/NE-LYT/267) was rejected by the Committee in 2003 mainly on the grounds of the footprint of the proposed Small House falling entirely outside both the “V” zone and the ‘VE’ of a recognized village and thus did not comply with the Interim Criteria. There has not been any major change in planning circumstances of the area since the approval of the similar applications. At the same meeting, the Committee will also consider other similar applications (No. A/NE-LYT/653 to 661) for nine Small Houses.
- 11.6 Regarding the adverse public comment mainly on the planning intention of “AGR” zone, land available in “V” zone, the Small House development not meeting the genuine demand of indigenous villagers, and the setting of undesirable precedents, Government departments’ comments and planning assessments 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 has no objection to the application.

- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.6.2022, 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 provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "AGR" zone in Lung Yeuk Tau and Kwan Tei South 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 the planning intention.

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 applicant.

14. Attachments

Appendix I

Application Forms with Attachments received on 27.4.2018

Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous s.16 Application
Appendix IV	Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the “AGR” Zone in the vicinity of the Sites in the Lung Yeuk Tau and Kwan Tei South area
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo

PLANNING DEPARTMENT
JUNE 2018