

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/673

- Applicant** : Mr. PANG Ryan Junn Hon represented by Mr. LEE Wai Leung
- Site** : Lot 1773 S.B ss.3 in D.D. 76, Leng Tsui Tsuen, Fanling, New Territories
- Site Area** : 181.9 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 claims himself an indigenous villager¹, seeks planning permission to build a proposed NTEH (Small House) on the application site (the Site) in Leng Tsui Tsuen, 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 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

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

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Fanling Village of Fanling Heung. His eligibility for Small House grant has yet to be ascertained.

- 1.4 The Site is the subject of a previous application (No. A/NE-LYT/540) for the development of a Small House submitted by the same applicant as the current application which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 9.5.2014. The planning permission lapsed on 10.5.2018. Compared with the previous application, the major development parameters including the site area and the layout of the proposed Small House under the current application are the same.
- 1.5 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received on 10.8.2018.

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 summarised as follows:

- (a) the applicant is an indigenous villager of Leng Tsui Tsuen, Fanling; and
- (b) the applicant has submitted application for Small House grant which is under process of LandsD. The applicant was advised by DLO/N of 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/540) for the development of a Small House submitted by the same applicant as the current application. The application was approved by the Committee on 9.5.2014 mainly on the grounds 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 ‘Village Environs’ (‘VE’) and there was a general shortage of land within the “Village Type Development” (‘V’) zone of ma Mei Ha Leng Tsui and Leng Pei Tsuen at the time of consideration; the proposed Small House development was not incompatible with the surrounding rural and village environment; and the proposed development was not expected to have significant adverse impacts on the surrounding area. The planning permission of that previous application lapsed on 10.5.2018. Compared with the previous application, the major development parameters including the site area and the layout of the proposed Small House under current application are 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 58 similar applications involving 42 sites for Small House development within/partly within the “AGR” zone in the vicinity of the Site in Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. All similar applications were approved with conditions by the Committee between April 2003 and June 2018 mainly on the considerations that the applications generally 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 summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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) currently vacant, flat and covered by wild grass;
- (b) located to the immediate west of the village proper of Mai Mei Ha Leng Tsui (**Plan A-2a**);
- (c) the northern tip of the Site encroaches onto a footpath and nullah (**Plan A-2a**); and
- (d) not accessible by vehicular access.

7.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by village houses, vacant land, temporary structures, active/fallow agricultural land and tree groups and;
- (b) surrounded by village houses under construction, and vacant land with planning applications for Small House developments approved by the Committee (**Plan A-2a**);
- (c) to the east is the existing village proper of Ma Mei Ha Leng Tsui; and
- (d) to the further southwest is a “Government, Institution or Community” zone currently occupied by the ‘Life Building Centre’.

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 meet Small House demand (outstanding Small House application plus 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 4.38 ha (equivalent to 175 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 43 ² while the 10-year Small House demand forecast for the same village cluster is 132.
	Sufficient land in “V” zone to meet outstanding Small House application?		✓	- Land available to meet the Small House demand within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 0.91 ha (equivalent to 36 Small House sites) (Plan A-2b).

² Among the 43 outstanding Small House applications, 4 of them fall within the “V” zone and 39 straddle or outside the “V” zone. For those 39 applications straddling or being outside the “V” zone, 28 of them have already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Site is a fallow land overgrown with weeds. Agricultural infrastructures such as road access and water source are 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 Site is located to the east of Ma Mei Ha Leng Tsui and 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?	✓		<ul style="list-style-type: none"> - 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. - Notwithstanding the above, the application involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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. - Compared the latest aerial photo of 2018 to aerial photo of 2013 (under previous planning application No. A/NE-LYT/540), there is no significant change in the rural landscape character in the area comprising of village houses, farmlands (both active and abandoned) and woodland. The Site is surrounded by Small Houses with approval granted in the last three years. - The Site is an abandoned farmland covered with wild grasses. No trees are found on the Site. There is a narrow and shallow nullah of low landscape value running along the northeastern boundary of the Site. A footpath is connecting the Site to the village road (Plan A-2a). No significant adverse landscape impact arising from the proposed development is anticipated. - 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 had no comment on the application. The Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Leng Tsui objected to the proposal mainly on the grounds that

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				the proposed development may cause flooding problem.

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 17.8.2018, the application was published for public inspection. During the statutory public inspection period, ten public comments were received (**Appendix VI**). A North District Council (NDC) member indicates no comment on the application. Seven villagers of the Ma Mei Ha Leng Tsui Tsuen object to the application mainly on the grounds that the proposed Small House will obstruct a village footpath and may cause adverse fire safety and traffic problems; the proposed Small House may cause adverse drainage impacts on the surrounding area and cause flooding; and there is no pedestrian passage for the villagers. Designing Hong Kong Limited and an individual object to the application on the considerations that the proposed Small House is not in line with planning intention of the “AGR” zone; land is still available in “V” zone of Ma Mei Ha, Ma Mei Ha Leng Tsui Tsuen and Leng Pei Tsuen; the proposed Small House should be connected to a proper drainage system instead of septic tank as proposed; 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 This 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 43 while the 10-year Small House demand forecast for the same village cluster is 132. According to the latest estimate by PlanD, about 0.91 ha (equivalent to 36 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 covered by wild grass (**Plans A-2a and A-4**). The village proper of Ma Mei Ha Leng Tsui is located to the immediate east and there are approved Small House applications in the vicinity of the Site. The proposed Small House development is not incompatible with the surrounding rural setting dominated by village houses, vacant land, active/fallow agricultural land and tree groups. 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 nullah and footpath within the Site (**Plan A-2a**), DLO/N of LandsD advises that if the footpath within the Site is affected by the proposed Small House development, his office may consider including a clause, if necessary and appropriate, to ensure that free passage on the portion of the footpath is to be provided at all times within the Site, should the Small House grant application be approved.
- 11.5 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 (about 0.91 ha or equivalent to 36 Small House sites) within the "V" zone is insufficient to meet the 43 outstanding Small House applications and the 10-year demand forecast for 132 Small Houses. The Site is the subject of a previously approved application (No. A/NE-LYT/540) for Small House development submitted by the same applicant. Besides, the Site is in close proximity to the "V" zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and bounded by existing cluster of village houses and Small House applications approved at different stages of development nearby. The implementation of which are forming a new village cluster in the vicinity of the Site (**Plan A-2a**).
- 11.6 There are 58 similar applications involving 42 sites for Small House development in the vicinity of the Sites approved with conditions by the Committee between April 2003 and June 2018 (**Plan A-1**) 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. There has not been any major change in planning circumstances of the area since the approval of these similar applications.

- 11.7 Regarding the local objection and adverse public comment mainly on the planning intention of “AGR” zone, land available in “V” zone, the obstruction of village footpath, adverse drainage, fire safety, flooding and traffic problems, the lack of connection to proper drainage system 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 5.10.2022, 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 10.8.2018
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 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
OCTOBER 2018**