

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/850

<u>Applicant</u>	:	Mr. TANG Wing Fai represented by Mr. HUI Kwan Yee
<u>Site</u>	:	Lots 917 RP and 919 in D.D. 46, Ma Mei Ha, Fanling, New Territories
<u>Site Area</u>	:	About 148.14m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<u>Zonings</u>	:	(i) “Green Belt” (“GB”) (about 62%); and (ii) “Village Type Development” (“V”) (about 38%)
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

- 1.1 The applicant, who claims himself as an indigenous villager¹, seeks planning permission to build a NTEH (Small House) at the application site (the Site) in Ma Mei Ha, Fanling, falling within an area mainly zoned “GB” (about 62%) and partly zoned “V” (about 38%) on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ is a Column 1 use always permitted within the “V” zone, while ‘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 within “GB” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently largely covered with grass, partly hard-paved and traversed by a footpath (**Plans A-4a and A-4b**).

¹ As advised by the District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself as an indigenous villager of Ma Mei Ha, Fanling Heung. His eligibility for Small House grant is yet to be ascertained at this stage.

1.2 Details of the proposed Small House are as follows:

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

1.3 The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.

1.4 In support of the application, the applicant has submitted an Application Form with attachment received on 28.5.2025 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**, as summarised below:

- (a) the applicant has submitted a Small House grant application to LandsD. As part of the Site falls outside the “V” zone, planning permission is required for the proposed Small House development;
- (b) there are existing village houses in the vicinity of the Site. The applicant does not possess other available land for the Small House development within Ma Mei Ha Village;
- (c) the Site, which has been left vacant and is currently covered by grass, is not suitable for agricultural purpose. The proposed Small House development at the Site could fully utilise the vacant land resource; and
- (d) should the application be approved, the applicant will comply with all the approval conditions imposed. The proposed Small House development would not induce adverse environmental, traffic, drainage and landscape impacts on the surroundings.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application of NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 for Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) is relevant to this application. The relevant assessment criteria are at **Appendix III**.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

- 7.1 There were 13 similar applications involving seven sites for proposed Small House development within or straddling the same “GB” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.
- 7.2 Among the 11 approved applications, six of them (No. A/NE-LYT/224, 453 and 458 to 461²) were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between 2001 and 2012 (i.e. prior to the formal adoption of a more cautious approach by the Board in August 2015³), mainly on the considerations that the application generally met the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the village ‘environs’ (‘VE’) of Ma Mei Ha and there was a general shortage of land in meeting the demand for Small House development at the time of consideration. Subsequently, five applications (No. A/NE-LYT/617, 622, 623, 633 and 634) were approved by the Committee in April and September 2017 respectively, mainly on sympathetic considerations that the site was the subject of previous approval for Small House development; and there were Small House applications approved in the vicinity at different stages of development nearby forming new village clusters in the locality.
- 7.3 For the remaining two applications (No. A/NE-LYT/559 and 713) involving the same site entirely fell within the “GB” zone, both were rejected by the Committee in 2015 and 2019 respectively, mainly on the grounds that the proposed development was not in line with the planning intention of the “GB” zone; and land was still available within the “V” zone of Ma Mei Ha for Small House development; and/or the approval of the application would set an undesirable precedent for similar applications within the “GB” zone.
- 7.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

² For applications No. A/NE-LYT/453 and 458 to 461, only a portion of the sites fell within the “GB” zone (ranging 3% to 20% of the site areas), while the majority part of the sites fell within the adjoining “AGR” zone (**Plan A-2a**).

³ Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications provided by LandsD.

8. **The Site and Its Surrounding Areas** (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently largely covered with grass, partly hard-paved and traversed by a footpath;
- (b) located to the west of the village proper of Ma Mei Ha; and
- (c) accessible from Sha Tau Kok Road – Ma Mei Ha via a local access.

8.2 The surrounding areas are of rural character predominated by village houses/domestic structures, parking of vehicles, active/fallow farmlands, vegetated areas and tree clusters. To the immediate south is an existing village house with previous approval granted by the Committee in 2001. To the north, west and further south are mainly vegetated areas with tree clusters and marsh.

9. **Planning Intentions**

9.1 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.

9.2 The planning intention of the “V” zone is to designate both existing recognized 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.

10. **Comments from Relevant Government Departments**

10.1 The application has been assessed against the assessment criteria at **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?			Less than 50% of the Site and footprint of the proposed Small House and the Site fall within the “V” zone.
	- Footprint of the proposed Small House	42%	58%	
	- The Site	38%	62%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	Within 'VE'? - Footprint of the proposed Small House - The Site	100% 100%	- -	DLO/N, LandsD advises that the Site and the footprint of the proposed Small House fall entirely within the 'VE' of Ma Mei Ha.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)? Sufficient land in "V" zone to meet outstanding Small House applications?	 ✓	✓	<u>Land Required</u> - Land required to meet Small House demand in Ma Mei Ha: about 4.43ha (equivalent to 177 Small House sites). The outstanding Small House applications is 15 ⁴ while the 10-year Small House demand is 162. <u>Land Available</u> - Land available to meet the Small House demand within the "V" zone of Ma Mei Ha: about 1.28ha (equivalent to about 51 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of "GB" zone?		✓	- There is a general presumption against development within the "GB" zone. - The Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application from nature conservation perspective.
5.	Compatible with surrounding area/development?	✓		The proposed development is not incompatible with the surrounding areas which are of rural character predominated by village houses/domestic structures, active/fallow farmlands, vegetated areas, tree clusters and marsh.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

⁴ Among the 15 outstanding Small House applications, 13 fall within the "V" zone, and two fall outside the "V" zone. For those two applications falling outside the "V" zone, both have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Environmental and 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.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	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.
10.	Traffic impact?	✓		The Commissioner for Transport (C for T) advises that Small House developments should be confined within the "V" zone as far as possible. Though 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 only involves the development of one Small House and could be tolerated.
11.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.
12.	Landscaping impact?	✓		The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) considers that approval of the application for the proposed Small House development at the Site partly zoned "GB" may alter the landscape character of the "GB" zone.
13.	Local objections conveyed by DO?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Details of comments from government departments are at **Appendix V**.

- (a) DLO/N, LandsD;
- (b) DAFC;
- (c) C for T;
- (d) DEP;
- (e) CE/MN, DSD;
- (f) D of FS;
- (g) CE/C of WSD; and
- (h) CTP/UD&L, PlanD.

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

- (a) District Officer (North), Home Affairs Department (DO(N), HAD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

11. Public Comments Received During Statutory Publication Period

On 6.6.2025, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix VII**). Two comments from the Kadoorie Farm & Botanic Garden Cooperation and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “GB” zone; land is still available within the “V” zone of Ma Mei Ha; and/or sympathetic consideration should not be given to the application as the Site is not subject of previous approval for Small House development. The remaining two comments from a member of North District Council and the Chairman of Lung Shan Area Committee indicate no comment on the application.

12. Planning Considerations and Assessments

12.1 The application is for proposed Small House development at the Site falling within the area mainly zoned “GB” (about 62%) and partly zoned “V” (about 38%) on the OZP (**Plan A-2a**). Whilst the proposed development is always permitted within “V” zone, it is not in line with the planning intention of the “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 justification in the submission for a departure from the planning intention of this zone.

12.2 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Ma Mei Ha (**Plan A-2a**). According to

DLO/N, LandsD, the number of outstanding Small House applications for Ma Mei Ha is 15 while the 10-year Small House demand forecast is 162. Based on PlanD's latest estimate, about 1.28ha (equivalent to about 51 Small House sites) is available within the "V" zone concerned (**Plan A-2b**). While the amount of land available within the "V" zone of Ma Mei Ha 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 in considering applications for Small House development since August 2015. Among 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.3 The Site, which is located to the west of the village proper of Ma Mei Ha, is currently largely covered with grass, partly hard-paved and traversed by a footpath (**Plans A-2 and A-4**). Except the existing village house with planning approval to its immediate south, the Site is generally bounded by vacant land covered with grass. To its further north and south, tree clusters and marsh are found respectively (**Plans A-3 and A-4**). DAFC has no comment on the application from nature conservation perspective, while CTP/UD&L, PlanD considers that the approval of the current application for the proposed Small House development at Site partly zoned "GB" may alter the landscape character of the "GB" zone. C for T considers that while Small House developments should be confined within the "V" zone as far as possible, the application could be tolerated from traffic impact perspective given that it involves one Small House only. Other relevant government departments consulted, including DEP, CE/MN, DSD, D of FS and CE/C, WSD have no objection to or no adverse comment on the application.
- 12.4 There are 13 similar applications for Small House developments within or straddling the same "GB" zone in the vicinity of the Site (**Plan A-2a**). Among them, six applications were approved with conditions prior to the formal adopting a more cautious approach by the Board, while five applications involving sites with previous approvals for Small House developments were approved by the Committee in 2017 mainly on sympathetic considerations as detailed in paragraph 7.2 above. The planning circumstances of the current application are different from those of the approved applications. Besides, the remaining two similar applications covering the same site located to the immediate southwest of the Site were rejected by the Committee mainly on the grounds that the proposed development was not in line with the planning intention of the "GB" zone; and land was still available within the "V" zone of Ma Mei Ha for Small House development. The planning considerations of the current application are similar to those of these rejected applications. Rejecting the current application is generally in line with the Committee's previous decisions.
- 12.5 Regarding the public comments on the application, government departments' comments and planning assessments 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 in paragraph 11 above, 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 “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 the planning intention; and
 - (b) land is still available within the “V” zone of Ma Mei Ha which is primarily intended 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.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.7.2029, 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 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form with Attachments received on 28.5.2025
Appendix II	Relevant Extracts of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Relevant Extract of the Town Planning Board Guidelines No. 10 for Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
Appendix IV	Similar Applications
Appendix V	Government Departments’ General Comments

Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
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 of Ma Mei Ha
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2025**