

TOWN PLANNING BOARD

TPB Paper No. 11030

For Consideration by
the Town Planning Board on 14.11.2025

REVIEW OF APPLICATION NO. A/NE-LYT/850
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

Proposed House (New Territories Exempted House (NTEH) - Small House)
in “Green Belt” (“GB”) and “Village Type Development” (“V”) zones

Lots 917 RP and 919 in D.D. 46, Ma Mei Ha, Fanling, New Territories

REVIEW OF APPLICATION NO. A/NE-LYT/850
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed House (New Territories Exempted House (NTEH) - Small House)
in “Green Belt” (“GB”) and “Village Type Development” (“V”) zones**

Lots 917 RP and 919 in D.D. 46, Ma Mei Ha, Fanling, New Territories

1. Background

- 1.1 On 28.5.2025, the applicant, Mr. TANG Wing Fai represented by Mr. HUI Kwan Yee, sought planning permission to build a proposed NTEH (Small House) at the application site (the Site) under section 16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area mainly zoned “GB” (about 62%) and partly zoned “V” (about 38%) on the approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19 (**Plans R-1 and R-2a**).
- 1.2 On 18.7.2025, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- (a) the proposed development was not in line with the planning intention of the “GB” zone which was 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 was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention; and
 - (b) land was still available within the “V” zone of Ma Mei Ha which was primarily intended for Small House development. It was 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.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/NE-LYT/850 (Annex A)
 - (b) Extract of minutes of the RNTPC meeting held on 18.7.2025 (Annex B)
 - (c) Secretary of the Board’s letter dated 1.8.2025 (Annex C)

2. **Application for Review**

On 22.8.2025, the applicant applied under section 17(1) of the Ordinance for a review of RNTPC's decision to reject the application (**Annex D**).

3. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are detailed at **Annex D** as summarised below:

- (a) as the Site has been left vacant since land acquisition by the applicant, it is not reasonable to reject the application;
- (b) there are existing Small Houses or similar Small House applications approved by the Board in the vicinity of the Site (**Plan R-2a**); and
- (c) the applicant does not own any alternative land within the village for Small House development.

4. **The Section 16 Application**

The Site and its Surrounding Areas (Plans R-1 to R-4)

4.1 The situation of the Site and the surrounding areas at the time of consideration of the section 16 application by the RNTPC were described in paragraphs 8.1 and 8.2 of **Annex A**. There has been no material change of the situation of the Site and the surrounding areas since then.

4.2 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.

4.3 The surrounding areas are of rural character comprising village houses/domestic structures, active/fallow farmlands, vacant lands and tree clusters or vegetated areas. To the immediate south is an existing Small House with previous planning permission granted by the RNTPC in 2001. To the north, west and south are generally vegetated areas with tree clusters or marsh within the same "GB" zone (**Plan R-3** and Photo 1 in **Plan R-4**).

Planning Intention

4.4 There has been no change in the planning intention of the "GB" zone as mentioned in paragraph 9.1 of **Annex A**, 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.

Assessment Criteria

- 4.5 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. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II** of **Annex A**.

Town Planning Board Guidelines

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

Previous Application

- 4.7 There is no previous application at the Site.

Similar Applications

- 4.8 When the section 16 application was considered by the RNTPC on 18.7.2025, there were 13 similar applications¹ (No. A/NE-LYT/224, 453, 458 to 461, 559, 617, 622, 623, 633, 634 and 713) involving seven sites for Small House developments in the vicinity of the Site, of which one entirely fell within the same “GB” zone and six straddled the “GB” and “Agriculture” (“AGR”) or “V” zones since the first promulgation of the Interim Criteria on 24.11.2000. Since then, two more similar applications (No. A/NE-LYT/855 and 856) involving two of the seven sites straddling the “GB” and “AGR” zones, as mentioned above, were considered by the RNTPC on 19.9.2025.
- 4.9 Amongst the 15 similar applications, 13 of them were approved by the RNTPC. Six applications (No. A/NE-LYT/224, 453 and 458 to 461²) were approved with conditions by the RNTPC 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, seven applications (No. A/NE-LYT/617, 622, 623, 633, 634, 855 and 856) were approved by the RNTPC in 2017 and 2025, with or without conditions, mainly on sympathetic considerations that the site was the subject of previous planning permission(s) 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.

¹ Excluding applications No. A/NE-LYT/454 to 457, 618 to 621 and 857 involving four sites and entirely falling within the adjoining “AGR” zone (**Plan R-2a**).

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

- 4.10 The remaining two applications (No. A/NE-LYT/559 and 713), which involved the same site entirely zoned “GB” and were not subject to any previous planning permission for Small House development, were both rejected by the RNTPC 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 there was no strong planning justification for a departure from the planning intention; 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.
- 4.11 Details of the above similar applications are summarised at **Annex E** and their locations are shown on **Plan R-2a**.

5. Comments from Relevant Government Departments

- 5.1 Comments on the section 16 application made by relevant government departments are stated in paragraph 10 and **Appendix V** of **Annex A**. Their advisory comments, if any, are at **Appendix VI** of **Annex A** and recapped at **Annex G**.
- 5.2 For the review application, relevant government departments have been further consulted. They all maintain their previous comments on the application, except for the following local views conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD).

Local Views

- 5.2.1 Comments of DO(N), HAD:
- (a) she has consulted the locals regarding the application; and
 - (b) one comment from a villager of Ma Mei Ha objecting the review application was received (**Annex F**).
- 5.3 Comments from the District Lands Officer/North of Lands Department (DLO/N, LandsD) as set out in **Appendix V** of **Annex A** are recapitulated as follows:

Land Administration

- 5.3.1 Comments of DLO/N, LandsD:
- (a) the Site falls within the ‘VE’ of Ma Mei Ha;
 - (b) the applicant has submitted a Small House application but rejected by his office. In applicant’s previous Small House grant application, he claimed himself as an indigenous villager of Ma Mei Ha, Fanling Heung. The eligibility of the applicant for Small House grant is yet to be ascertained;

- (c) the Site is an Old Schedule Agricultural Lot held under Block Government Lease;
- (d) the Site is currently not covered by Modification of Tenancy/Building Licence; and
- (e) the total number of outstanding Small House applications for Ma Mei Ha is 15, while the 10-year Small House demand forecast is 162 (the same at the time of consideration of the section 16 application).

5.3.2 In view of the comments of DLO/N, LandsD, the assessment of the land required and land available for Small House development is as follows:

<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<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 ⁵ .
Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<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 R-2b).

6. Public Comments Received During Statutory Publication Periods

6.1 On 5.9.2025, the review application was published for public inspection. During the statutory public inspection period, three public comments were received (**Annex H**). One comment from the Kadoorie Farm & Botanic Garden Corporation expresses the view that the Board should seriously consider whether there is sufficient land within the concerned “V” zone of Ma Mei Ha for Small House development. Two comments from a member of the North District Council and the Chairman of Lung Shan Area Committee indicate no comment on the application.

6.2 At the section 16 application stage, four comments were received and set out in

⁴ Among the 15 outstanding Small House applications, 13 fall within the “V” zone, and two straddling or falling outside the “V” zone have obtained valid planning approvals from the Board.

⁵ According to DLO/N, LandsD, the figure for 10-year Small House demand is estimated and provided by the Indigenous Inhabitant Representative of the village concerned, which has not been verified by his office.

paragraph 11 of **Annex A**.

7. Planning Considerations and Assessments

7.1 The application for a review of the RNTPC's decision on 18.7.2025 to reject the section 16 application for proposed Small House development at the Site mainly zoned "GB" (about 62%) and partly zoned "V" (about 38%) on the OZP (**Plans R-1 and R-2a**) with the reasons stated in paragraph 1.2 above. To support the review application, the applicant has submitted written representation as set out in paragraph 3 above. Since the consideration of the section 16 application by the RNTPC, there has been no material change in planning circumstances. Having considered the written representation, the planning assessments on the review application are detailed below. In gist, taking into account that (i) the proposed development is not in line with the planning intention of the "GB" zone and there is no strong planning justification in the submission for a departure from the planning intention, and (ii) there is still land available within the "V" zone of Ma Mei Ha for Small House development, no sympathetic consideration will be given to the current review application.

Planning Intention of the "GB" zone and TPB PG-No. 10

7.2 In response to the applicant's claim that the Site has been left vacant since his acquisition and it is unreasonable for the RNTPC to reject the application, it should be noted that the Site mainly within the "GB" zone on the OZP is currently generally formed and covered with grass. Except for the existing village houses with previous planning permission (No. A/NE-LYT/224) to its immediate south, the Site is generally bounded by vacant vegetated areas with tree clusters and marsh to the further north and south, within the same "GB" zone (**Plans R-3 and R-4**). The proposed Small House 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 of the "GB" zone.

7.3 According to TPB PG-No. 10 (**Appendix III of Annex A**), an application for new development in "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Although the proposed development, which is partly within the "V" zone and located in close proximity to the existing village, is generally compatible with the surrounding area and will not involve extensive clearance of existing natural vegetation, the Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) maintains her previous view and advises that approval of the current application for the proposed Small House development at the Site partly zoned "GB" may alter the landscape character of the "GB" zone.

Land Available within the "V" zone of Ma Mei Ha for Small House Development

7.4 In response to the applicant's claims that there are existing Small Houses or

similar Small House applications approved by the Board in the vicinity, it should be noted that except for the existing Small House with previous planning permission granted in 2001 to the immediate south, all the Small Houses in the immediate vicinity of the Site are situated within the “V” zone of Ma Mei Ha and no planning permission from the Board is required (**Plan R-2a**). Besides, each planning application for Small House development would be considered on its individual merits, amongst others, that whether the Small House development fulfils the Interim Criteria. Regarding the Interim Criteria (**Appendix II of Annex A**), criterion (a) is relevant to the consideration of the current review application. While the Site falls entirely within the ‘VE’ of Ma Mei Ha (**Plan R-2a**) and land available within the “V” zone (i.e. about 1.28ha of land or equivalent to about 51 Small Houses sites⁶) is insufficient to fully meet the future Small House demand of 177 in Ma Mei Ha, it should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015, and more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, land available within the “V” zone of Ma Mei Ha (**Plan R-2b**) is sufficient to accommodate the outstanding 15 Small House applications. The applicant also claims that he has no alternative land within the village. However, land ownership and transaction are not the material planning considerations for Small House application. As there is no general shortage of land in meeting the outstanding Small House applications in the “V” zone, 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 infrastructures and services.

Similar Applications

- 7.5 There are 15 similar applications involving seven sites for Small House developments within or partly within the same “GB” zone in the vicinity of the Site (**Plan R-2a**). For the 13 approved applications, six applications were approved prior to the formal adoption of a more cautious approach by the Board, while seven applications involving sites with previous planning permission(s) for Small House developments were approved by the RNTPC in 2017 and 2025 mainly on sympathetic considerations as detailed in paragraph 4.9 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 RNTPC mainly for the reasons as mentioned in paragraph 4.10 above. 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 previous RNTPC’s decisions.

Relevant Government Departments’ Comments

- 7.6 Other relevant government departments consulted including the Director of Agriculture, Fisheries and Conservation, Chief Engineer/Mainland North of Drainage Services Department, Commissioner for Transport and Director of Fire Services maintain no adverse comment on or no objection to the current review application.

⁶ Same as the situation at the time of considering the section 16 application.

Local Views and Public Comments

7.7 Regarding the local views and public comments on the review application as mentioned in paragraphs 5.2.1 and 6.1 above, the government departments' comments and the planning assessments above are relevant.

8. Planning Department's Views

8.1 Based on the assessments made in paragraph 7 above, having taken into account the local views in paragraph 5.2.1 and public comments in paragraph 6.1 above and given that there is no material change in the planning circumstances since the consideration of the subject application by the RNTPC, PlanD maintains its previous views of not supporting the review 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.

8.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until 14.11.2029, 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 advisory clauses at **Annex G** are also suggested for Members' reference.

9. Decision Sought

9.1 The Board is invited to consider the application for review of the RNTPC's decision and decide whether to accede to the application.

9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

9.3 Alternatively, should the Board decide to approve the review 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.

10. Attachments

Annex A	RNTPC Paper No. A/NE-LYT/850
Annex B	Extract of Minutes of the RNTPC Meeting held on 18.7.2025
Annex C	Secretary of Board's letter dated 1.8.2025
Annex D	Letter Received by Board on 22.8.2025 from the Applicant Applying for a Review of the RNTPC's decision
Annex E	Similar Applications
Annex F	Local Comment conveyed by DO(N), HAD
Annex G	Recommended Advisory Clauses
Annex H	Public Comments
Plan R-1	Location Plan
Plan R-2a	Site Plan
Plan R-2b	Estimated Amount of Land Available for Small House Development within "V" zone
Plan R-3	Aerial Photo
Plan R-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2025**