

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/867

Applicant : Mr. CHAN Hei represented by Mr. HUI Kwan Yee

Site : Lot 1677 RP in D.D. 76, Leng Pei Tsuen, Fanling, New Territories

Site Area : About 199.6m²

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/19

Zoning : “Agriculture” (“AGR”)

Application : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself as an indigenous villager of Leng Pei Tsuen, seeks planning permission to build a NTEH (Small House) at the application site (the Site) falling within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, ‘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, which requires planning permission from the Town Planning Board (the Board). The Site is largely covered with grass and partly hard-paved (**Plan A-4**).

1.2 Details of the proposed NTEH (Small House) are as follows:

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

1.3 The applicant indicates that the uncovered area of the Site will remain vacant. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.

- 1.4 The Site is the subject of two previous applications (No. A/NE-LYT/489 and 635) for proposed Small House development submitted by the same applicant as the current application, which were approved by the Rural and New Town Planning Committee (the Committee) of the Board on 7.9.2012 and 22.9.2017 respectively. Details of the previous applications are set out in paragraph 5 below.
- 1.5 In support of the application, the applicant has submitted an Application Form with attachment received on 13.11.2025 (**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 the Lands Department (LandsD), which is still under processing;
- (b) the Site is the subject of a previously approved application (No. A/NE-LYT/635) for Small House development submitted by the same applicant. The validity of the previous planning permission was extended once but has recently lapsed. Since the planning permission could not be further extended, a fresh application is required; and
- (c) the proposed development would not induce adverse environmental, traffic, drainage, sewerage 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. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-LYT/489 and 635) both submitted by the same applicant as the current application for the proposed Small House development. Application No. A/NE-LYT/489 was approved with conditions by the Committee on 7.9.2012 (i.e. prior to the formal adoption of a more cautious approach by the Board in August 2015¹) mainly on the considerations that the footprint of the proposed Small House fell entirely within the village ‘environs’ (‘VE’) of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and

¹ 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.

there was a general shortage of land within the concerned “Village Type Development” (“V”) zone in meeting the demand for Small House development at the time of the consideration; the proposed development was not incompatible with the surrounding areas; it would unlikely cause adverse impacts on the surroundings; and there were approved applications for Small House developments in the vicinity. The planning permission lapsed on 8.9.2016.

5.2 The last previous application (No. A/NE-LYT/635) was approved with conditions by the Committee on 22.9.2017 mainly on sympathetic considerations that it generally complied with the Interim Criteria in that the footprint of the proposed Small House fell entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and there was a general shortage of land within the “V” of the same village in meeting the outstanding Small House applications at the time of consideration. The validity of the planning permission was extended once and has subsequently lapsed on 23.9.2025. Compared with the previous applications, the major development parameters and footprint of the proposed Small House under the current application are generally the same.

5.3 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

6. Similar Applications

6.1 There are 35 similar applications involving 24 sites for proposed House(s) (NTEH(s) – Small House(s)) within or straddling the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.

6.2 For the 34 similar applications approved by the Committee, 16 applications (No. A/NE-LYT/379, 391, 404, 437, 463, 464, 472, 497, 518, 519, 520, 538, 539, 547, 558 and 561) were approved with conditions by the Committee between August 2008 and May 2015 before the formal adoption of a more cautious approach by the Board in August 2015 mainly on the similar considerations as detailed in paragraph 5.1 above. Since then, 18 applications (No. A/NE-LYT/579, 584, 585, 597, 663, 703, 708, 724, 740, 759, 770, 793, 799, 801, 802, 810, 817 and 818) were approved by the Committee, with or without conditions, between November 2015 and January 2024 on similar considerations as detailed in paragraph 5.2 above.

6.3 The remaining one application (i.e. No. A/NE-LYT/424) submitted by a Tso for proposed 11 Small Houses was rejected by the Committee in 2010 mainly on the grounds that the proposed development was not in line with the planning intention of “AGR” zone and there was no strong planning justification in the submission for a departure from the planning intention; the site fell within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and land within ‘VE’ or “V” zone for recognised New Territories villages should be primarily reserved for Small House development by indigenous villagers; and approval of the application would set an undesirable precedent for similar applications within “AGR” zone in the future.

6.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

7.1 The Site is:

- (a) largely covered with grass and partly hard-paved;
- (b) located to the west of the existing village proper of Leng Pei Tsuen; and
- (c) abutting a local access/footpath to immediate east connecting to Sha Tau Kok Road – Ma Mei Ha.

7.2 The surrounding areas are of rural landscape character mainly comprising village houses/domestic structures, active/fallow farmland, vacant land and tree groups or vegetated areas. To the immediate south and west are clusters of Small House developments with planning permissions approved by LandsD. To the east across the local access are the village houses within the “V” zone of Ma Mei Ha Leng Tsai and Leng Pei Tsuen. To the northwest is a cluster of village houses with planning permissions within the subject “AGR” zone. To the further northwest is a public vehicle park with valid planning permission under application No. A/NE-LYT/845.

8. Planning Intention

The planning intention of the “AGR” zone 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 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? - Footprint of the proposed Small House - The Site	- - -	100% 100% -	The Site and footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	The District Lands Officer/North (DLO/N), LandsD advises that the Site falls entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> <ul style="list-style-type: none"> - Land required to meet Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4ha (equivalent to 160 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 28² while the 10-year Small House demand is 132³.
	Sufficient land in “V” zone to meet outstanding Small House applications?		✓	<u>Land Available</u> <ul style="list-style-type: none"> - 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 0.53ha (equivalent to about 21 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. There are active agricultural activities in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/development?	✓		The proposed development is not incompatible with the surrounding areas of rural landscape character mainly comprising village houses/domestic structures, active/fallow farmland, vacant land and tree groups or vegetated areas.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

² Among the 28 outstanding Small House applications, seven fall within the “V” zone, and 21 straddle or fall outside the “V” zone. Out of 21, 15 have obtained valid planning approvals from the Board.

³ According to DLO/N, LandsD, the figure of 10-year Small House demand forecast is estimated and provided by the Indigenous Inhabitant Representative of the village concerned, which has not been verified by his office.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Environmental and sewerage impacts?		✓	The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application 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) has no objection to the application. She advises that the application only involves the construction of one Small House at the Site, and considers that the application can be tolerated on traffic ground. Though additional traffic generated by the proposed development is not significant, the permission of development outside the "V" zone will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact has to be reviewed on case-by-case basis in the future.
11.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.
12.	Landscape impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no adverse comment on the application from landscape planning perspective, and advises that significant adverse landscape impact arising from the proposed development is not anticipated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by DO?		✓	The District Officer (North), Home Affairs Department (DO(N), HAD) advises that she has issued consultation letters to the Fanling District Rural Committee, Lung Shan Area Committee, and Indigenous Inhabitant Representative and Resident Representative of Leng Pei Tsuen and Leng Tsui.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and Recommended Advisory Clauses, if any, are provided at **Appendices V** and **VI** respectively.

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

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

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

10. Public Comments Received During Statutory Publication Period

On 21.11.2025, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix VII**). Two comments from individuals object to the application mainly on the grounds that the previous planning permission for the Small House development at the Site was granted before the Board's formal adoption of a more cautious approach in August 2015; there are land ownership issues regarding the Site, and any form of development should not be permitted thereon. The remaining comment from a member of North District Council indicates no comment on the application.

11. Planning Considerations and Assessments

11.1 The application is for proposed Small House development at the Site zoned “AGR”

on the OZP (**Plan A-1**). The proposed development is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from the agricultural development perspective as the Site possesses potential for agricultural rehabilitation. Nevertheless, having taken into account the planning assessments below, sympathetic consideration could be given to the proposed development.

11.2 The Site, which is largely covered with grass and partly hard-paved, is located to the west of the existing village proper of Leng Pei Tsuen, and adjoining to clusters of Small Houses developments with planning permissions approved by LandsD to the immediate south and west (**Plans A-2a** and **A-4**). The proposed development is not incompatible with the surrounding areas which are of rural landscape character mainly comprising village houses/domestic structures, active/fallow farmland, vacant land and tree groups or vegetated areas (**Plan A-3**). CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective, and advises that significant adverse landscape impact arising from the proposed development is not anticipated. Other relevant government departments consulted, including C for T, CE/MN, DSD, D of FS and CE/C, WSD have no objection to or no adverse comment on the application.

11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen (**Plan A-2a**). According to DLO/N, LandsD, the number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 28, while the 10-year Small House demand forecast is 132. Based on PlanD’s latest estimate, about 0.53ha (equivalent to about 21 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). In this regard, there is insufficient land within the “V” zone to meet the outstanding Small House applications. As such, the application generally complies with the Interim Criteria and sympathetic consideration could be given to the proposed development.

11.4 The Site is the subject of two previously approved applications both submitted by the same applicant as the current application for Small House development as detailed in paragraphs 5.1 and 5.2 above. The planning permission for the last approved application lapsed recently in September 2025. As advised by DLO/N, LandsD, the applicant’s eligibility for Small House grant has been ascertained, and the Small House grant application submitted by the applicant was approved in February 2025, with the basic terms offer letter to be issued in due course. The processing of the Small House grant is already at an advance stage. In this regard, sympathetic consideration could be given to the application.

11.5 There are 35 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**). Except for the rejected application (No. A/NE-LYT/424) which was submitted by a Tso instead of indigenous villagers, all other applications were approved by the Committee, 18 of which were approved after the Board’s formal adoption of a more cautious approach in August 2015 mainly on the considerations as detailed in paragraph 6.2 above. The planning circumstances of the current application are similar to those of the approved applications. Approval of the current application is in line with the Committee’s previous decisions.

11.6 Regarding the public comments as detailed in paragraph 10 above, the government

departments' comments and planning assessments above are relevant. For the public comment alleging land ownership disputes at the Site, it should be noted that land ownership and related transactions are not material planning considerations for Small House applications⁴.

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, PlanD 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 9.1.2030, 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 attached at **Appendix VI**.
- 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 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 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 Form with Attachments received on 13.11.2025
Appendix II	Relevant Extracts of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments

⁴ According to the Land Registry's records, the applicant is the sole current land owner of the Site.

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 Leng Tsui and Leng Pei Tsuen village cluster
Plan A-3	Aerial Photo
Plan A-4	Site Photo

PLANNING DEPARTMENT
JANUARY 2026