

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-LYT/793**

- Applicants** : Messrs LAW Chor Shing, LEE Pui Ching, LEE Wing Chun, PANG Vincent represented by Mr HUI Kwan Yee
- Site** : Lots 1676 S.D, 1676 S.E, 1676 S.F, 1676 S.G and 1677 S.F in D.D. 76, Leng Pei Tsuen, Fanling, New Territories
- Site Area** : 573.3m<sup>2</sup> (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/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Four Houses (New Territories Exempted Houses (NTEHs) – Small Houses)

**1. The Proposal**

- 1.1 The applicants, who claim to be indigenous villagers<sup>1</sup>, seek planning permission to build four NTEHs (Small Houses) on the application site (the Site) in Leng Pei Tsuen, Fanling (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/19. 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)’ is a Column 2 use in the “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant.

- 1.2 Details of the applicants and their respective Lot No. (**Plan A-2a**) are as follows:

House	Applicant	Lot No.
H1	Mr LAW Chor Shing	Lot 1676 S.D and 1677 S.F
H2	Mr LEE Pui Ching	Lot 1676 S.E
H3	Mr LEE Wing Chun	Lot 1676 S.F
H4	Mr PANG Vincent	Lot 1676 S.G

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<sup>1</sup> According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claim themselves to be indigenous villagers of Wo Hop Shek, Ko Po, Fanling of Fanling Heung. Their eligibilities for Small House grant are yet to be ascertained.

1.3 Details of each of the proposed NTEHs (Small Houses) are as follows:

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

The applicants have not indicated the usage of the uncovered area of the Site.

1.4 The Site involves three previous applications (No. A/NE-LYT/472, 489 and 561) for proposed Small House(s). The last application No. A/NE-LYT/561 submitted by the same applicants for the same use was approved with conditions by the Committee on 8.5.2015. Details of the previous applications are set out in paragraph 5.1 below. Compared with the last application, the major development parameters and layouts of the Small Houses are generally the same as the previous ones.

1.5 In support of the application, the applicants have submitted an Application Form with attachments received on 3.4.2023 (**Appendix I**).

## **2. Justifications from the Applicants**

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

- (a) there are no other alternative sites for Small House development while there are similar applications for proposed NTEH in the vicinity of the Site; and
- (b) the Site is the subject of the previously approved planning application (No. A/NE-LYT/561) which has lapsed, a fresh application is therefore submitted.

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

The applicants are the sole “current land owners” of the respective lots at 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 for New Territories Exempted House (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 involves three previous applications (No. A/NE-LYT/472, 489 and 561) for proposed Small House(s). Application No. A/NE-LYT/472 (proposed three Small Houses submitted by the same applicants of H1 to H3 under the current application) and application No. A/NE-LYT/489 (proposed one Small House by a different applicant

which involved a small portion of the current application site, **Plan A-2a**) were approved with conditions by the Committee on 15.6.2012 and 7.9.2012 respectively mainly on sympathetic 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 village 'environs' ('VE') of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and there was a general shortage of land within the "Village Type Development" ("V") zone to meet the Small House demand at the time of consideration; the proposed developments were considered not incompatible with the surrounding rural and village environment; and the proposed developments were not expected to have significant adverse traffic, drainage and environmental impacts.

- 5.2 The last application (No. A/NE-LYT/561) submitted by the same applicants under the current application for proposed four Small Houses was approved by the Committee on 8.5.2015 mainly on the same sympathetic consideration that the application site was the subject of previous approval. Subsequently, s.16A application No. A/NE-LYT/561-1 and A/NE-LYT/561-2 for extension of time limit for commencement of the approved development were approved by the Director of Planning under the delegated authority of the Board and the planning permission has recently lapsed on 9.5.2023.
- 5.3 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-2a**.

## **6. Similar Applications**

- 6.1 There has been 24 similar applications for Small House development within/partly within the same "AGR" zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area since the first promulgation of the Interim Criteria on 24.11.2000. While 13 applications were approved with conditions by the Committee between August 2008 and September 2014 (i.e. before the formal adoption of a more cautious approach since August 2015<sup>2</sup>), 11 applications were approved by the Committee between November 2015 and September 2022 after the Board's formal adoption of a more cautious approach mainly on consideration 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 sites were the subject of previous approvals and/or there were Small House applications approved in the vicinity at different stages of development nearby which formed a new village cluster in the locality; not incompatible with the surrounding rural and village environment; and no significant adverse impact on the surrounding areas.
- 6.2 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

## **7. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

- 7.1 The Site is:

- (a) vacant land mainly covered with wild grass;

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<sup>2</sup> Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided By LandsD.

- (b) accessible via a local track leading to Sha Tau Kok Road; and
- (c) located to the immediate west of the existing village proper of Ma Mei Ha Leng Tsui and Leng Pei Tsuen.

7.2 The surrounding areas have the following characteristics:

- (a) the Site is situated in an area of rural landscape character dominated by village houses and active/fallow agricultural land;
- (b) to the north and east are village houses within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen intermixed with casual car parking, vacant land and fallow agricultural land (**Plan A-3**);
- (c) to the southeast and south are the sites of approved applications No. A/NE-LYT/635, 547 and 770 (**Plan A-2a**) for Small Houses developments and agricultural land, and further south is a plant nursery; and
- (d) to the west are Small Houses and to the further west are fallow agricultural land.

## 8. **Planning Intention**

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

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone?  - The Site  - Footprint of the proposed Small Houses	-  -	100%  100%	The Site falls entirely within “AGR” zone.
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small Houses	100%  100%	-  -	DLO/N, LandsD advises that the Site and the footprint of the proposed Small Houses fall 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 application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster: about 4.53 ha (equivalent to 181 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster are 49 <sup>3</sup> 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?		✓	<u>Land Available</u> - 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 0.68 ha (equivalent to 27 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active 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 Small Houses are not incompatible with the surrounding rural environment and no significant adverse landscape impact is anticipated ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	

<sup>3</sup> Among the 49 outstanding Small House applications, 7 of them fall within the “V” zone and 42 straddle or outside the “V” zone. For those 42 applications straddling or falling outside the “V” zone, 24 of them have obtained valid planning approvals from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	Director of Fire Services (D of FS) has no in-principle objection to the application. The applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		Commissioner for Transport (C for T) 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 future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, the application only involving development of four Small Houses could be tolerate on traffic grounds.
10.	Drainage impact?	✓		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?		✓	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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective. Significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the proposed use is not anticipated.
13.	Local objections conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of Fanling District Rural Committee has no comment on 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) DLO/N, LandsD;
- (b) CE/MN, DSD;
- (c) DEP;
- (d) DAFC;
- (e) CTP/UD&L, PlanD;
- (f) D of FS;
- (g) C for T; and
- (h) 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) Chief Engineer/Construction, Water Supplies Department (CE/C,WSD); and
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

## **10. Public Comments Received During Statutory Publication Period (Appendix VI)**

On 11.4.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received. While the Chairman of Sheung Shui District Rural Committee indicates no comment on the application, one individual objects to the application mainly on the grounds that land is still available in the “V” zone to meet the outstanding Small House applications.

## **11. Planning Considerations and Assessment**

- 11.1 The application includes four proposed Small Houses on respective lots at the Site, which fall entirely within “AGR” zone on the OZP. The proposed developments are not in line with the planning intention of the “AGR” zone as set out in paragraph 8 above. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active 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.
- 11.2 The Site is vacant, flat and partly covered with grass (**Plan A-2a**). The village proper of Ma Mei Ha Leng Tsui and Leng Pei Tsuen is located to the east and there are approved Small House applications in the vicinity of the Site. The proposed Small Houses are not incompatible with the surrounding rural setting dominated by village houses, active/fallow agricultural land and vacant land. As significant adverse landscape impact arising from the proposed developments is not anticipated, CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that application involves four Small House only, the applications could be tolerated from traffic impact perspective. Other relevant government departments consulted, including DEP, CE/C, WSD, CE/MN of DSD and D of FS, have no objection to or no comment on the application.
- 11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of four proposed Small Houses fall entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen. DLO/N of LandsD advises that the number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 49 while the 10-year Small House demand forecast is 132. Based on PlanD’s latest estimate, about 0.68 ha (equivalent to 27 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 49 outstanding Small House applications. As such, the application generally complies with the Interim Criteria as the footprint of the Small House falls entirely within the ‘VE’ and there is a general shortage of land within the “V” zone in meeting the Small House demand. It is also 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 previously approved application (No. A/NE-LYT/561) for Small House developments submitted by the same applicants as current application. According to DLO/N, the Small House applications are still under processing. Compared with the previous application, the major development parameters and footprints of the proposed Small Houses are generally the same. In this regard, sympathetic consideration might be given to the application.
- 11.4 There are 24 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**). Among them, 11 applications were approved by the Committee between November 2015 and September 2022 after the Board’s formal adoption of a more cautious approach mainly on consideration that there was a shortage of land within the “V” zone of the same village and/or the site was the subject of previous approvals; there were Small House applications approved in the vicinity at different stages of development nearby which formed a new village cluster in the locality. The planning circumstances of the current application are similar to those approved applications with



previous approvals (e.g. A/NE-LYT/547, 663, 703, 724, 740 and 770).

- 11.5 Regarding the public comments in paragraph 10, 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 19.5.2027, 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 condition of approval and advisory clauses are also suggested for Members' reference:

### **Approval condition**

the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services 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 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 applicants.

#### **14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 3.4.2023
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawings A-1 to A-4</b>	Proposed Small Houses Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available for Small House Development within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2023**