

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/843

Applicant : Mr. PANG Fuk Choi represented by Honest Land Surveys Company

Site : Lot 1772 S.A in D.D. 76, Leng Pei Tsuen, Fanling, New Territories

Site Area : About 143.2m²

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 Fanling Wai¹, seeks planning permission to build a NTEH (Small House) at the application site (the Site) in Leng Pei Tsuen, Fanling, falling within an area zoned “AGR” on the OZP (**Plan A-1**). 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 within “AGR” zone, which 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	:	195.09m 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 be used as circulation area. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.

¹ As advised by the District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant’s eligibility for Small House grant is yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted an Application Form with attachment received on 31.12.2024 (**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, who is an indigenous villager of Fanling Heung, is entitled to apply for Small House grant in accordance with the current Small House Policy;
- (b) the applicant does not possess any available land for Small House development within the “Village Type Development” (“V”) zone; and
- (c) there are some similar approved Small House applications within the “AGR” zone in the vicinity of the Site.

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 Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 There were 73 similar applications involving 43 sites for proposed House(s) (NTEH(s) – Small House(s)) within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Among the 73 approved applications, 27 (applications No. A/NE-LYT/342, 343, 378, 379, 391, 451, 452, 463, 464, 472, 497, 518 to 520, 529 to 540 and 561) were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between November 2006 and May 2015, prior to the formal adoption of a more cautious approach in considering Small House application by the Board in August 2015².

² 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.

- 6.3 Since then, 46 applications (No. A/NE-LYT/579 to 581, 584, 585, 589, 597, 648, 649, 653, 654 to 661, 663, 673, 675, 676, 724, 728, 729, 740, 753, 758, 759, 765, 778 to 786, 793, 799, 801, 802, 810, 817 and 818) were approved by the Committee between November 2015 and January 2024, mainly on 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 village ‘environs’ (‘VE’) and there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand at the time of consideration; 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 new village clusters in the locality.
- 6.4 Details of the similar applications are summarised at **Appendix III** 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) partly hard-paved and partly covered with vegetation and trees;
 - (b) located entirely within the ‘VE’ of Ma Mei Ha Leng Tsui and Leng Pei Tsuen; and
 - (c) abutting a local access/footpath to immediate southeast and southwest connecting to Sha Tau Kok Road – Ma Mei Ha.
- 7.2 The surrounding areas are of rural character predominated by village houses/domestic structures, vacant/unused land covered by vegetation or tree groups and active/fallow agricultural land. To the east is the existing village proper of Ma Mei Ha Leng Tsui and Leng Pei Tsuen within the “V” zone adjoining the Site. A cluster of village houses with planning permissions is found to the south of the Site across the local access. To the further southwest is the Life Building Centre within the “Government, Institution or Community” zone.

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%	- -	DLO/N, LandsD advises that the Site and the footprint of the proposed Small House fall 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 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 Leng Tsui and Leng Pei Tsuen village cluster: about 4.05ha (equivalent to 162 Small House sites). The outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 30 ³ while the 10-year Small House demand is 132. <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 0.63ha (equivalent to about 25 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. The 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.

³ Among the 30 outstanding Small House applications, 8 fall within the “V” zone, and 22 straddle or fall outside the “V” zone. For those 22 applications straddling or falling outside the “V” zone, 16 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/development?	✓		The Chief Town Planner/Urban Design & Landscape of Planning Department (CTP/UD&L, PlanD) considers that the proposed Small House development is not incompatible with the surrounding areas mainly comprising farmlands, village houses, vegetated areas and scattered tree groups.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping impact?		✓	CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective. The Site is occupied by vegetation of <i>Musa sp.</i> and some trees of undesirable species. Significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the proposed development is not anticipated.
14.	Local objections conveyed by DO?		✓	

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 IV**.

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

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

- (a) District Officer (North), Home Affairs Department (DO(N) of 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).

10. Public Comments Received During Statutory Publication Period

On 7.1.2025, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix VI**). One comment from an individual expresses concern on the application in that the Site is not the subject of any previously approved application; and the improper management of sewage facilities of NTEH might result in environmental nuisance on the surroundings. The remaining two comments from a member of North District Council and an individual indicate 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-2a**). 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. DAFC does not support the application from the agricultural development perspective as the Site possesses potential for agricultural rehabilitation.

- 11.2 The Site, located to the west of the existing village proper of Ma Mei Ha Leng Tsui and Leng Pei Tsuen and adjoining a cluster of approved Small House applications, is partly hard-paved and partly covered with vegetation and trees (**Plan A-2a**). The proposed Small House development is not incompatible with the surrounding areas which mainly comprise village houses/domestic structures, vegetated areas and scattered tree groups. CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed Small House development is not anticipated. 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 CE/MN, DSD, D of FS and CE/C, WSD have no objection to or no adverse comment on the application.
- 11.3 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 is 30, while the 10-year Small House demand forecast is 132. Based on PlanD’s latest estimate, about 0.63ha of land (equivalent to about 25 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 (**Appendix II**) and sympathetic consideration should be given to the application.
- 11.4 There are 73 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**), 46 of which were approved by the Committee between November 2015 and January 2024 after the Board’s formal adaption of a more cautious approach mainly on the considerations as detailed in paragraph 6.3 above. The planning circumstances of the current application are largely similar to those of the approved applications. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comments as detailed in paragraph 10 above, the 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, 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 28.2.2029, 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 attached at **Appendix V**.

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 31.12.2024
Appendix II	Relevant Extracts of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	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 Photos