

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

**APPLICATION NO. A/NE-LYT/644**

- Applicant** : Mr. PANG Tsang Yin represented by Glister Engineering Consultants Company
- Site** : Lot 1584 S.C in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Area** : 154 m<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/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

- 1.1 The applicant, who claimed to be an indigenous villager<sup>1</sup>, seek planning permission to build a NTEH (Small House) on the application site (the Site) in Kan Tau Tsuen, Fanling (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. 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 the “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	: 195.09 m <sup>2</sup>
Number of Storeys	: 3
Building Height	: 8.23 m
Roofed Over Area	: 65.03 m <sup>2</sup>

The applicant indicates that the uncovered areas of the Site would be used as garden of the proposed Small House. Layout of the proposed Small House (including septic

---

<sup>1</sup> According to District Lands Officer/North, Lands Department, the applicant claimed himself to be an indigenous villager of Fanling Village of Fanling Heung. His eligibility for Small House concessionary grant has yet to be ascertained.

tank) is shown on **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the Application Form with attachments and supplementary information (**Appendices I and Ia**) which were received on 28.11.2017 and 30.11.2017 respectively.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in part 9 of the Application Form in **Appendix I**. They can be summarized as follows:

- (a) the applicant is an indigenous villager and is entitled for a Small House grant in accordance with the current Small House Policy;
- (b) the proposed Small House falls within village 'environs' ('VE') of Kan Tau Tsuen;
- (c) the proposed Small House development is compatible with the surrounding environment and land uses; and
- (d) there are approved Small House applications in close proximity to the Site.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is the sole "current land owner". 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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. 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 for the Site.

## **6. Similar Applications**

- 6.1 There are 81 similar applications for Small House development within / partly within the "AGR" zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 72 applications involving 57 sites were approved with conditions by the Committee between May 2002 and December 2017 mainly on the 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 'VE' and there was a general

shortage of land within the “V” zone of the same village in meeting the Small House demand; the proposed Small House developments were not incompatible with the surrounding rural and village environment; the proposed developments were not expected to have significant adverse traffic, drainage, environmental and/or landscape impacts on the surrounding area; and similar applications were approved by the Committee. Some of the approval cases are in the vicinity of the Site and their Small House grant applications are being processed/approved (**Plan A-2a**).

6.3 The other nine applications involving eight sites were rejected by the Committee or the Board on review between September 2003 and December 2017 mainly on the considerations that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village; the proposed developments were not in line with the planning intention of the “AGR” zone; and approval of the applications would set undesirable precedents for similar applications.

6.4 Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## **7. The Site and Its Surrounding Area (Plans A-1, A-2a and A-2b, A-3 and A-4)**

7.1 The Site is:

- (a) located to the south of the “V” zone of Kan Tau Tsuen;
- (b) vacant and largely covered by wild vegetation; and
- (c) accessible by a footpath.

7.2 The surrounding area has the following characteristics:

- (a) a rural landscape character dominated by village houses, vacant land and active/fallow farmland;
- (b) to the east, south and west are the sites of a number of planning applications for Small House developments which were approved by the Committee between 2002 and 2017 (**Plans A-2a and A-2b**);
- (c) to the north is the village proper of Kan Tau Tsuen; and
- (d) to the south is vacant land; and further south are active/fallow farmland intermixed with a few temporary structures for domestic purpose, and unused land.

## **8. Planning Intention**

The planning intention of the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area 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 in **Appendix II**. The assessment is summarized 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 House	-  -	100%  100%	The Site and footprint of the proposed Small House fall entirely within “AGR” zone.
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small House	100%  100%	-  -	DLO/N advises that the Site falls entirely within the ‘VE’ of Kan Tau Tsuen.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet the Small House demand in Kan Tau Tsuen: about 4.28 ha (equivalent to 171 Small House sites). The outstanding Small House applications for Kan Tau Tsuen are 75 while the 10-year Small House demand forecast for the same village is 96.  - Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen: about 2.19 ha (equivalent to 87 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Site is an abandoned land overgrown with vegetation. As agricultural infrastructure such as road access and water supply are available, the Site possesses potential for agricultural rehabilitation. As such, the application is not supported from the agriculture point of view.
5.	Compatible with surrounding area/development?	✓		The proposed Small House is not incompatible with the surrounding rural setting and environment dominated by village houses and active/fallow agricultural land ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	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.
9.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- The Commissioner for Transport (C for T) has reservation on the application and 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 the future. The resulting cumulative adverse traffic impact could be substantial.</li> <li>- Notwithstanding the above, the application only involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.</li> </ul>
10.	Drainage impact?	✓		The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewage 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.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> <li>- The Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&amp;L, PlanD) has no objection to the application from the landscape planning point of view.</li> <li>- According to her site record, the Site is leveled and covered with patches of wild grasses. The Site is surrounded</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>by vacant sites for several permitted NTEHs approved in the last few years. In this connection, the proposed development is not incompatible with the surrounding context and adverse impact to the existing landscape resources to the surrounding area is not anticipated.</p> <p>- Should the application be approved by the Board, an approval condition for landscape works is not required as there is inadequate planting space within the Site for tree planting works.</p>
13.	Local objection conveyed by DO?		✓	District Officer (North) (DO(N)) advises that the Chairman of Fanling District Rural Committee (FDRC) has no comment on the application whereas the Indigenous Inhabitant Representative and the Resident Representative of Kan Tau Tsuen support the application that the Site is located near "V" zone of Kan Tau Village where road access and drainage facilities have been planned.

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) District Lands Officer/North, Lands Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;
- (c) Director of Environmental Protection;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Commissioner for Transport;
- (f) Director of Agriculture, Fisheries and Conservation;
- (g) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (h) Director of Fire Services; and
- (i) District Officer (North), Home Affairs Department.

9.3 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (New Territories East), Civil Engineering and Development Department.

## **10. Public Comments Received During Statutory Publication Period**

On 5.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.12.2017, four public comments on the application (**Appendix V**) were received. The Chairmen of FDRC and

Sheung Shui District Rural Committee indicate no comment on the application. The remaining two comments from the Designing Hong Kong Limited and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; the proposed development would cause degradation of the rural environment and cause water pollution; the proposed development does not comply with the Interim Criteria; and the application is not for meeting the applicants’ housing need.

## **11. Planning Considerations and Assessments**

- 11.1 The Site falls within an area zoned “AGR” on the OZP (**Plans A-1 and A-2a**). The proposed Small House is not in line with the planning intention of the “AGR” zone which is intended 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 point of view as the Site possesses potential for agricultural rehabilitation.
- 11.2 The application is a cross-village Small House application. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kan Tau Tsuen is 75 while the 10-year Small House demand forecast for the same village is 96. According to the latest estimate by PlanD, about 2.19 ha (equivalent to 87 Small House sites) of land are available in the “V” zone of Kan Tau Tsuen for Small House development (**Plan A-2b**). The footprint of the proposed Small House falls entirely within the ‘VE’ of Kan Tau Tsuen.
- 11.3 The Site is currently vacant, flat and largely covered by wild vegetation, and situated to the south of the “V” zone of Kan Tau Tsuen (**Plans A-2a and A-4**). The village proper of Kan Tau Tsuen is located to the north and there are a number of approved Small House applications in the vicinity of the Site. The proposed Small House is not incompatible with the surrounding rural setting dominated by village houses, active/fallow agricultural land and vacant land (**Plan A-2a**). Significant adverse landscape impact arising from the proposed development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view. C for T considers that Small House development should be confined within the “V” zone as far as possible. Given that the proposed development involving only one Small House, it could be tolerated. Other Government departments consulted, including D of FS, CE/MN of DSD and DEP, have no adverse comment on or no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Kan Tau Tsuen (**Plan A-2a**). While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is noted that land (about 2.19 ha or equivalent to 87 Small House sites) is still available within the “V” zone to meet the outstanding 75 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst 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 more orderly development pattern, efficient use of land and provision of infrastructure and

services. However, it should be noted that the proposed Small House is in close proximity to the “V” zone of Kan Tau Tsuen and there are already a number of Small House applications approved at different stages of development nearby, the implementation of which are forming new village clusters in the locality (**Plans A-2a and A-2b**). Relevant Government departments, except DAFC, have no objection to/ no adverse comment on the application.

- 11.5 There are 81 similar applications for Small House development in the vicinity of the Sites and 72 of them were approved by the Committee between 2002 and 2017 (**Plan A-1**) mainly on considerations that they complied with the Interim Criteria; the proposed Small Houses were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. Some of the approved cases are in close proximity to the Site (**Plan A-2a**). The other nine similar applications were rejected by the Committee or the Board on review between 2003 and 2017 mainly on the grounds that the proposed Small House developments did not comply with the Interim Criteria as the proposed Small House footprints fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village. There has not been major change in planning circumstances of the area since the approval/rejection of these similar applications.
- 11.6 Regarding the adverse public comments mainly on the planning intention of “AGR” zone, not complying with Interim Criteria, and adverse environmental and drainage impacts, 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 26.1.2022, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) 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 VI**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member’s reference:

- (a) the proposed development is not in line with the planning intention of the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area 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; and
- (b) land is still available within the “V” zone of Kan Tau Tsuen 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 more orderly development pattern, efficient use of land and provision of infrastructures and services.

### **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 applicant.

### **14. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 28.11.2017
<b>Appendix Ia</b>	Supplementary Information received on 30.11.2017
<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>	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	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 within the “V” zone of Kan Tau Tsuen for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos