

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LYT/679 to 681

- Applicants** : Mr. PANG Wing Kit (Application No. A/NE-LYT/679)
Mr. PANG Sai Leung (Application No. A/NE-LYT/680)
Mr. PANG Wai Lun (Application No. A/NE-LYT/681)
all represented by Yicon Consultants Limited
- Sites** : Lots 1846 S.A ss.8 and 1850 S.J (Application No. A/NE-LYT/679)
Lots 1846 S.A ss.9 and 1852 S.B ss.5 (Application No. A/NE-LYT/680)
Lot 1846 S.A ss.10 (Application No. A/NE-LYT/681)
all in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Areas** : 127 m² (about) (Application No. A/NE-LYT/679)
118 m² (about) (Application No. A/NE-LYT/680)
119 m² (about) (Application No. A/NE-LYT/681)
- 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”)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposals

- 1.1 The applicants, who claimed to be indigenous villagers¹, seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Kan Tau Tsuen, Fanling (**Plans A-1a and A-2a**). The Sites fall 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)’ in “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claimed themselves to be indigenous villagers of Fanling Village of Fanling Heung. Their Small House applications were approved in principle in January 2017 and are pending for execution.

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

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

Layouts of the three proposed Small Houses (including septic tanks) under applications No. A/NE-LYT/679 to 681 are shown on **Drawings A-1, A-2 and A-3** respectively. The applicants indicate that the uncovered areas of the Sites would be used as garden of their proposed Small Houses.

1.3 The Sites are part of the subject of a previous planning application No. A/NE-LYT/410 for development of eight Small Houses. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 13.8.2010 and the planning permission was extended once to 13.8.2018. Compared with the previous application, major development parameters including the layouts of the proposed Small Houses under the current applications remain unchanged (**Plan A-1b**). The applicants under the current applications are the same as previous approval.

1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia to Ic**) which were received on 24.10.2018.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of the Application Forms at **Appendices Ia to Ic** respectively. They can be summarized as follows:

- (a) the Sites were the subject of a previous planning approval in 2010. The planning permission was extended once to 13.8.2018. According to the Town Planning Board Guideline, no more extension of time for the planning permission would be allowed by the Board. As such, fresh applications are submitted; and
- (b) DLO/N, LandsD has issued the offer letters to the applicants but the building licenses are still under preparation.

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

The applicants are the “current land owners” of their respective lots. 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 Applications

- 5.1 The Sites are involved in part of the three previous planning applications (No. A/NE-LYT/167, 384 and 410). Applications No. A/NE-LYT/167 and 384 are for different uses submitted by different applicants.
- 5.2 Application No. A/NE-LYT/167 for temporary trailer park for a period of 12 months was rejected on review by the Board on 19.3.1999 mainly on the grounds of not in line with the planning intention of the “AGR” zone; insufficient information to demonstrate that no adverse drainage impact on the surrounding areas; and setting of an undesirable precedent.
- 5.3 Application No. A/NE-LYT/384 for proposed temporary public vehicle park for private cars for a period of 2 years was rejected by the Committee on 17.4.2009 mainly on the grounds of not in line with the planning intention of the “AGR” zone; insufficient information to demonstrate that no adverse traffic impact on the surrounding areas; and setting of an undesirable precedent.
- 5.4 The last previous application (No. A/NE-LYT/410) for the development of eight Small Houses at a larger site was approved by the Committee with conditions on 13.8.2010. The three applicants under the current applications are the same under the previous approval. The application was approved mainly on the grounds that the application generally complied with the Interim Criteria in that most of the footprints of the proposed Small Houses fell within the village ‘environs’ (‘VE’) and there was a general shortage of land within the “Village Type Development” (“V”) zone at the time of consideration; the proposed Small House developments were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. The planning permission was extended once to 13.8.2018 under the application No. A/NE-LYT/410-2. The planning permission lapsed on 14.8.2018. Compared with the previous application, major development parameters including the layouts of the proposed Small Houses under the current applications generally remain the same.
- 5.5 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

6. Similar Applications

- 6.1 There are 89 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-1a**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 80 applications involving 64 sites were approved with conditions by the Committee between March 2001 and July 2018 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 impacts on the surrounding area; and similar applications were approved by the Committee. Some of the approval cases are in the vicinity of the Sites (**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; land was still available within the “V” zone; and approval of the applications would set undesirable precedents for similar applications.

6.4 Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

7. The Sites and Their Surrounding Areas (Plans A-1a, A-2a and A-2b, and aerial photo on Plan A-3 and site photos on Plans A-4)

7.1 The Sites are:

- (a) a piece of flat and vacant land with wild grass (**Plans A-4**);
- (b) located in close proximity to the village cluster of Kan Tau Tsuen; and
- (c) accessible via Sha Tau Kok Road – Ma Mei Ha.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is a piece of vacant land with grass and to its further north across Sha Tau Kok Road - Ma Mei Ha is the “V” zone of Leng Tsai Tsuen;
- (b) to the north-west across Sha Tau Kok Road is a warehouse and to the west is an open storage yard;
- (c) to the east are sites of planning applications No. A/NE-LYT/354 and A/NE-LYT/434 for Small House developments approved by the Committee in 2007 and 2011, and to its further east are village houses in “V” zone and the village proper of Kan Tau Tsuen (**Plan A-2a**); and
- (d) to the south are village houses in “V” zone of Kan Tau Tsuen.

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 applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - The Sites - Footprints of the proposed Small Houses 	-	100%	- The Sites and the footprints of the proposed Small Houses fall entirely within the “AGR” zone.
		-	100%	
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - The Sites - Footprints of the proposed Small Houses 	100%	-	- DLO/N, LandsD advises that the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen.
		100%	-	
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet the Small House demand in Kan Tau Tsuen: about 4.15 ha (equivalent to 166 Small House sites). The outstanding Small House applications for Kan Tau Tsuen are 70 ² while the 10-year Small House demand forecast for the same village is 96.
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) states that the agricultural activities in the vicinity are active. Agricultural infrastructure such as road access and water supply are available. As the Sites possess potential for agricultural rehabilitation, the applications are not supported from agriculture point of view.
5.	Compatible with surrounding area/development?	✓		- The proposed Small Houses are not incompatible with the surrounding rural setting and environment dominated by agricultural land and village houses (Plan A-2a).

² Among the 70 outstanding Small House applications, 13 of them fall within the “V” zone and 57 straddle or outside the “V” zone. For those 57 applications straddling or being outside the “V” zone, 34 of them have obtained valid planning approval from the Board.

6.	Within Water Gathering Grounds (WGGs)?		✓	
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 applications. The applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has reservation on the applications and advises that Small House developments should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments are not expected to be significant, such type of developments outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the applications involve construction of three Small Houses. She considers that the applications can be tolerated unless they are rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.

12.	Landscaping impact?		✓	<p>The Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning point of view.</p> <ul style="list-style-type: none"> - The Sites are located in the rural landscape character (i.e. fringe of Kan Tau Tsuen), which consists of village houses, patches of hard paved areas for car parking, abandoned farmland and scattered trees. The proposed Small Houses are not incompatible with the surrounding environment. The Sites are within an area of abandoned farmland with remnant patches of hard paved area in the vicinity. No existing tree is found within the Sites. Significant adverse landscape impact arising from the proposed development is not anticipated. - In consideration of the limited space within application boundaries, it is considered impractical to impose a landscape condition.
13.	Local objections conveyed by DO?		✓	<ul style="list-style-type: none"> - District Officer (North) (DO(N)) advises that he has consulted the locals. The Indigenous Inhabitant Representative supports the applications as the applicants have imminent needs. The Chairman of Fanling District Rural Committee and the Resident Representative (RR) of Kan Tau Tsuen have no comment on the applications and the RR advises that applicants should provide proper drainage to avoid adverse drainage impact to the adjacent area.

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

10. Public Comments Received During Statutory Publication Period

On 2.11.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, two public comments for applications No. A/NE-LYT/679 and 681 and one public comment for applications No. A/NE-LYT/680 were received (**Appendix VI**). Chairmen of Sheung Shui District Rural Committee indicates no comment on the applications No. A/NE-LYT/679 and 681. An individual objects to all of the applications mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; approval of the applications would encourage the prevalence of random developments with septic tanks; land is still available within the “V” zone for Small House development; and there is high potential for agricultural rehabilitation of the Sites.

11. Planning Considerations and Assessments

- 11.1 The Sites fall entirely within an area zoned “AGR” on the OZP. The proposed Small House developments are 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 applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 The applications are cross-village Small House applications. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kan Tau Tsuen is 70 while the 10-year Small House demand forecast for the same village is 96. According to the latest estimate by PlanD, about 2.06 ha (equivalent to 82 Small House sites) of land are available in the “V” zone of Kan Tau Tsuen for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Sites fall within the ‘VE’ of Kan Tau Tsuen.
- 11.3 The Sites are flat and covered with grass (**Plans A-2a and A-4**). They are located to the northwest of the “V” zone and village proper of Kan Tau Tsuen. The proposed Small Houses are not incompatible with the surrounding rural setting comprising village houses, fallow agricultural land, and vacant/unused land with some open storage uses. No existing tree is found within the Sites. Significant adverse landscape impact arising from the proposed developments is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the applications from the landscape planning perspective. C for T has reservation on the applications and considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed development involves three Small Houses, they could be tolerated. Other relevant Government departments, including DEP, CE/MN of DSD and D of FS, have no adverse comment or no objection to the applications.

- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall 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 2.06 ha or equivalent to 82 Small House sites) is still available within the "V" zone to meeting the outstanding 70 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 developments within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, it is noted that the Sites are the subjects of a previous approved planning application (No. A/NE-LYT/410) for eight Small Houses approved by the Committee in August 2010 and the applicants under the current applications are the same as the previous approval. According to DLO/N, LandsD, the Small House grant applications at the Sites were approved in principle in January 2017 but yet to be executed. Besides, the Sites are in close proximity to the "V" zone of Kan Tau Tsuen and bounded by the existing cluster of village houses and Small House applications in the north, south-west and east of the Sites approved at different stages of development nearby. The implementation of which are forming a new village cluster in the vicinity of the Sites (**Plan A-2a**). In this regard, sympathetic consideration might be given to the applicants.
- 11.5 The Sites are part of the subject under the previous approved application (No. A/NE-LYT/410) which was expired on 14.8.2018. According to the DLO/N, LandsD, seven of proposed eight Houses were approved in principle but only two of them were executed in 2017. Apart from the three sites under current applications, the remaining two Small House grant applications were not executed mainly on the ground that the applicants have not yet fulfilled the requirements from DLO/N. Besides, the Sites are adjacent to some nearby approved applications (i.e. Applications No. A/NE-LYT/216, 232, 234, 245, 246, 265, 299, 351, 354, 389 and 434) within the "VE" of Kan Tau Tsuen (**Plan A-2a**) which most of them have already been executed. The circumstances of the Sites are similar to these nearby approved applications. There has not been major change in planning circumstances of the area since the approval of these similar applications.
- 11.6 Regarding the adverse public comment objecting to the applications mainly on the grounds that the applications are not in line with the planning intention of the "AGR" zone; approval of the applications would encourage the prevalence of random developments with septic tanks; land is still available within the "V" zone; and there is high potential for agricultural rehabilitation of the Site, 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 applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 21.12.2022, 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 VII**.

12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members' 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 applications and decide whether to grant or refuse to grant the permission.

13.2 Should the Committee decide to approve the applications, 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 applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendices Ia to Ic	Application Form with attachments received on 24.10.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories

Appendix III	Previous Applications
Appendix IV	Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the “AGR” Zone in the vicinity of the Sites in the Lung Yeuk Tau and Kwan Tei South area
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-3	Layout Plans
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Kan Tau Tsuen for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2018**