

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/847

<u>Applicant</u>	:	Mr. LAU Kam Fat represented by Miss. TANG Sau Fong
<u>Site</u>	:	Lot 1587 S.B ss.2 in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
<u>Site Area</u>	:	About 126m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself as an indigenous villager of Hok Tau Wai¹, seeks planning permission to build a NTEH (Small House) at the application site (the Site) in Kan Tau Tsuen, Fanling, which falls 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 Small House are as follows:

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

¹ The District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that his office has not received any Small House application lodged by the applicant. As such, the applicant’s eligibility for Small House grant is yet to be ascertained at this stage.

- 1.3 The applicant indicates that the uncovered area of the Site will be used as garden. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.
- 1.4 The Site is the subject of a previous application (No. A/NE-LYT/200) submitted by a different applicant for proposed Small House development. Details of the previous application are set out in paragraph 5.1 below.
- 1.5 In support of the application, the applicant has submitted an Application Form with attachment received on 15.4.2025 (**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, who is an indigenous villager and the sole land owner of the Site, is entitled to apply for Small House grant in accordance with the prevailing policy; and
- (b) the Site is the subject of a previously approved application (No. A/NE-LYT/200) for proposed Small House development with the same layout. As there is no major change in the planning circumstances of the Site, the Board should approve the current application.

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

- 5.1 The Site is the subject of a previous application (No. A/NE-LYT/200) for proposed Small House development submitted by a different applicant². The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 19.5.2000 mainly on the sympathetic considerations that the proposed Small House development was considered not incompatible with the surrounding rural landscape character; the Site was located close to the village cluster of Kan Tau Tsuen; it would unlikely generate significant adverse impacts on the surroundings; and there was a general shortage of land within “V” zone in

² Application No. A/NE-LYT/200 was submitted by Mr. LEE Ah Ting.

meeting the Small House demand at the time of consideration. The validity of the planning permission was up to 19.5.2003. Whilst the relevant Building Licence (BL) was issued by LandsD on 15.11.2001, the proposed Small House development has not materialised. Subsequently, the BL was revoked on 9.3.2012. Compared with the previous application, the major development parameters and footprint of the proposed Small House are generally the same.

- 5.2 Details of the previous application is summarised at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There were 55 similar applications involving 35 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 52 approved applications, 23 (applications No. A/NE-LYT/238, 242, 367, 407, 473 to 476, 478 to 486, 494, 513 to 515, 545 and 557) were approved with conditions by the Committee between July 2002 and January 2015, prior to the formal adoption of a more cautious approach in considering Small House application by the Board in August 2015³. Since then, 29 applications (No. A/NE-LYT/583, 592, 600, 604 to 616, 629, 630, 644, 665 to 667, 715, 716, 727, 769, 787, 808 and 831) were approved by the Committee, with or without conditions, between December 2015 and July 2024, mainly on sympathetic considerations that the site was the subject of previous approval which was submitted by the same applicant(s); and/or there were Small House applications approved in the vicinity at different stages of development nearby which is forming new village clusters in the locality.
- 6.3 For the three rejected applications, two (No. A/NE-LYT/417 and 440) were rejected by the Committee and the Board upon review in 2010 and 2011 respectively, mainly on the grounds of not complying with the Interim Criteria in that the footprint of the proposed Small House largely or entirely fell outside the ‘VE’ and ‘V’ zone of Kan Tau Tsuen; and land was still available within the ‘V’ zone of Kan Tau Tsuen for Small House development.
- 6.4 For the remaining application No. A/NE-LYT/821, it was rejected by the Board upon review in 2024 on the grounds that land was still available within the ‘V’ zone for Small House development; and there were no specific circumstances to justify the application for sympathetic consideration as the application site, being the subject of a previously approved application, could not be regarded as an infill site among existing NTEHs/Small Houses and the processing of the Small House grant was not at an advance stage.
- 6.5 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

³ 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.

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

7.1 The Site is:

- (a) currently occupied by active farmland with some plants;
- (b) located at the southeastern fringe of Kan Tau Tsuen and to the immediate north of an existing Small House; and
- (c) without vehicular access.

7.2 The surrounding areas are of rural character predominated by village houses/domestic structures, active/fallow farmlands, unused lands covered by scatter tree groups or vegetated areas and vacant lands. To the immediate east, west⁴ and south of the Site are vacant areas. To the further southeast of the Site is the Tan Shan River.

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 Kan Tau Tsuen.

⁴ The concerned site (i.e. Lot 1587 S.B ss. 3 in D.D. 76) is the subject of an application No. A/NE-LYT/202 for proposed Small House development, which was approved with conditions by the Committee on 19.5.2000 (i.e. before the promulgation of the Interim Criteria on 24.11.2000).

	<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)? Sufficient land in “V” zone to meet outstanding Small House applications?	 ✓	✓	<u>Land Required</u> - Land required to meet Small House demand in Kan Tau Tsuen: about 4.08ha (equivalent to 163 Small House sites). The outstanding Small House applications is 33 ⁵ while the 10-year Small House demand is 130. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kau Tau Tsuen: about 1.69ha (equivalent to about 67 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 is being used for farming. 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.
5.	Compatible with surrounding area/development?	✓		The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L, PlanD) considers that the proposed Small House development is not incompatible with the surrounding areas mainly comprising active/fallow farmlands, village houses/domestic structures, rivers, scattered tree groups and vegetated areas.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Environmental and sewerage 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.

⁵ Among the 33 outstanding Small House applications, 14 fall within the “V” zone, and 19 straddle or fall outside the “V” zone. For those 19 applications straddling or falling outside the “V” zone, 11 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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.
12.	Landscaping impact?		✓	CTP/UD&L, PlanD has no adverse comments from landscape planning perspective. The Site is occupied by active farmland with some plants. Significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the proposed development is not anticipated.
13.	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 V**.

- (a) DLO/N, LandsD;
- (b) DAFC;
- (c) C for T;
- (d) DEP;
- (e) CE/MN, DSD;
- (f) D of FS;
- (g) CE/C of WSD; and
- (h) 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), 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 22.4.2025, the application was published for public inspection. During the statutory public inspection period, five public comments were received (**Appendix VII**). Four comments from the Chairman and the 1st Vice-chairman of Fanling District Rural Committee, the Chairman of Lung Shan Area Committee as well as an individual object to the application mainly on the grounds that the applicant is not an indigenous villager of Kan Tau Tsuen; and the Site is an Old Schedule Agricultural Lot instead of a Building Lot for Small House development. The remaining one 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-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 is being used for farming. There are active agricultural activities in the vicinity, and agricultural infrastructures such as road access and water source are also available. There is no strong planning justification in the current submission for a departure from the planning intention.

11.2 The Site, which is located at the southeastern fringe of Kan Tau Tsuen, is currently

occupied by active farmlands with some plants (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which mainly comprise active/fallow farmlands, village houses/domestic structures, rivers, scattered tree groups and vegetated areas (**Plans A-2 to A-4**). 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 DEP, 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 Kan Tau Tsuen (**Plan A-2a**). According to DLO/N, LandsD, the number of outstanding Small House applications for Kan Tau Tsuen is 33 while the 10-year Small House demand forecast is 130. Based on PlanD’s latest estimate, about 1.69ha (equivalent to about 67 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Kan Tau Tsuen is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.4 Though the Site is the subject of a previously approved application (No. A/NE-LYT/200) for proposed Small House development, it was submitted by a different applicant and the planning permission was lapsed. It should be noted that according to the Interim Criteria (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits and sympathetic consideration may be given if there are specific circumstances to justify the cases. The Site could not be regarded as an infill site among existing NTEHs/Small Houses as there are vacant areas to the immediate east, west and south of the Site (**Plans A-2a to A-4**). Besides, noting that DLO/N, LandsD advises that his office has not received any Small House application lodged by the applicant so far, the processing of Small House grant could not be regarded as an advance stage. In this regard, there are no specific circumstances to justify the current application for sympathetic consideration under the Interim Criteria.
- 11.5 There are 55 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**), 29 of which were approved by the Committee between December 2015 and July 2024 after the Board’s formal adoption of a more cautious approach mainly on sympathetic consideration that the site was the subject of previous approvals submitted by the same applicant(s) and/or there were Small House applications approved in the vicinity at different stages of development nearby which formed a new village clusters in the locality. The

planning circumstances of the current application are different from those of the approved applications.

- 11.6 Regarding the public comments on the application, government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments in paragraph 10 above, the Planning Department does not support the application for the following reasons:

- (a) 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; 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 6.6.2029, 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 at **Appendix VI**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I
Appendix II

Application Form with Attachments received on 15.4.2025
Relevant Extracts of the Interim Criteria for Consideration of
Application for NTEH/Small House in New Territories

Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
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 Kan Tau Tsuen
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2025**