

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/870

- Applicant** : Mr. LAU Tsz Yat
- Site** : Lot 1587 S.A ss.2 S.A in D.D. 76, Kan Tau Tsuen, Fanling
- Site Area** : About 201.7m²
- 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 Kan Tau Tsuen, seeks planning permission to build a NTEH (Small House) on the application site (the Site) falling within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, ‘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, which requires planning permission from the Town Planning Board (the Board). The Site is partly fenced-off, largely hard-paved, partly covered by vegetation and scattered trees, and currently occupied by some temporary structures with miscellaneous items (**Plans A-4a** and **A-4b**).

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 and planting areas. The existing *Aquilaria sinensis* (土沉香) within

the Site will be transplanted. The layout of the proposed Small House (including septic tank) and the landscape proposal are shown in **Drawings A-1** and **A-2** respectively.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 2.3.2026 (**Appendix I**)
- (b) Further Information (FI) received on 12.4.2026[^] (**Appendix Ia**)
^ accepted and exempted from the publication and recounting requirements

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I** and **Ib**, as summarised below:

- (a) the applicant, who is an indigenous villager of Kan Tau Tsuen and the sole owner of the Site, is entitled to build a Small House under the prevailing policy;
- (b) the Site is located in close proximity to the existing village cluster to its north and falls entirely within the village ‘environs’ (‘VE’) of Kan Tau Tsuen. The proposed development is generally compatible with the existing and approved Small House developments in the vicinity;
- (c) there is no active agricultural activity on the Site, and given its small scale, the proposed development would not frustrate the long-term planning intention or the overall functional integrity of the subject “AGR” zone;
- (d) there are similar applications approved by the Board in the vicinity of the Site, and approval of the current application would be in line with the Board’s previous decisions; and
- (e) the proposed development would not induce adverse traffic, environmental, drainage, sewerage and landscape impacts on the surroundings.

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 are 57 similar applications involving 38 sites for Small House(s) development within or straddling the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000¹.
- 6.2 For 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 Rural and New Town Planning Committee (the Committee) of the Board 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 2015². 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 approvals which was submitted by the same applicant; and/or there were Small House applications approved in the vicinity at different stages of development nearby which was forming new village clusters in the locality.
- 6.3 For the five rejected applications, three (No. A/NE-LYT/417, 440 and 642) were rejected by the Committee or the Board on review between 2010 and 2017, mainly on the grounds of not complying with the Interim Criteria in that the footprint of the proposed Small House entirely or largely 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 The remaining two applications (No. A/NE-LYT/821 and 847) were rejected by the Board on review in 2024 and 2025 respectively, mainly on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone and there was no strong planning justification in the submission for a departure from the planning intention; land was still available within the “V” zone for Small House development; and/or the proposed development was not in line with the Interim Criteria in that the site was not considered as an infill site among existing NTEHs/Small House, nor was the processing of the Small House grant at an advance stage. For application No. A/NE-LYT/821, the concerned applicant lodged an appeal against the Board’s decision to reject the case (i.e. Town Planning Appeal No. 2 of 2024) under section 17(B) of the Town Planning Ordinance. The appeal was subsequently dismissed by the Town Planning Appeal Board on 30.12.2025.
- 6.5 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-2a**.

¹ Excluding seven applications (No. A/NE-LYT/67, 158, 159, 165, 200, 201 and 202), involving six sites, which were approved prior to the first promulgation of the Interim Criteria on 24.11.2000.

² 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 the Lands Department (LandsD).

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

7.1 The Site is:

- (a) partly fenced-off and largely hard-paved, currently occupied by some temporary structures and miscellaneous items with patches of vegetation and scattered trees;
- (b) located at the southern fringe of Kan Tau Tsuen; and
- (c) without direct vehicular access.

7.2 The surrounding areas are of rural character predominated by village houses/domestic structures, active/fallow farmlands, vacant land scattered with tree groups and vegetated areas. To the immediate east and west are an existing Small House and a vacant area respectively. To the immediate south are some active farmland and a cluster of the proposed Small House developments approved by LandsD within the subject “AGR” zone. To the further west is another cluster of existing Small Houses with previously granted planning permissions, whilst to the further north, across the local access road is the existing village proper Kan Tau Tsuen zoned “V”.

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 footprint and the Site of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	The District Lands Officer/North (DLO/N), LandsD advises that the footprint and the Site fall entirely within the ‘VE’ of Kan Tau 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 applications plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Kan Tau Tsuen: about 4ha (equivalent to 160 Small House sites). The outstanding Small House applications for Kan Tau Tsuen is 30 ³ while the 10-year Small House demand is 130 ⁴ .
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen: about 1.68ha (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 possesses potential for agricultural rehabilitation. There are active agricultural activities 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 development is not incompatible with the surrounding areas of rural character predominated by village houses/domestic structures, active/fallow farmlands, vacant land scattered with tree groups or vegetated areas.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

³ Among the 30 outstanding Small House applications, 14 fall within the “V” zone, and 16 straddle or fall outside the “V” zone. Out of 16, eight have obtained valid planning approvals from the Board.

⁴ According to DLO/N, LandsD, the figure of 10-year Small House demand forecast is estimated and provided by the Indigenous Inhabitant Representative of the village concerned, which has not been verified by his office.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Environmental and sewerage impacts?		✓	The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application is unlikely to cause major pollution.
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) has no objection to the application. She advises that the application only involves the construction of one Small House at the Site, and considers that the application can be tolerated on traffic ground. Though additional traffic generated by the proposed development is not significant, the permission of development outside the “V” zone will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact has to be reviewed on case-by-case basis in the future.
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.	Landscape impact?		✓	Noting that the existing <i>Aquilaria sinensis</i> (土沉香) within the Site will be transplanted, the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no adverse comment on the application from landscape planning perspective, and considers that significant adverse landscape impact arising from the proposed development is not anticipated.
13.	Local objections conveyed by DO?		✓	The District Officer (North), Home Affairs Department (DO(N), HAD) advises that she has issued consultation letters to the Fanling District Rural Committee, Lung Shan Area Committee, and Indigenous Inhabitant Representative and Resident Representative of Kan Tau Tsuen.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and Recommended Advisory Clauses, if any, are provided at **Appendices IV** and **V** respectively.

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CE/MN, DSD;
- (e) D of FS;
- (f) CTP/UD&L, PlanD;
- (g) DAFC;
- (h) CE/C, WSD; and
- (i) 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) Director of Electrical and Mechanical Services (DEMS); and
- (c) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comments Received During Statutory Publication Period

On 10.3.2026, 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 objects to the application mainly on the ground that there is still available land for Small House developments within the “V” zone of Kan Tau Tsuen; and the Site is not the subject of any previous planning approval for Small House development. The remaining two comments from a member of North District Council and the Chairman of Lung Shan Area Committee 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-1**). 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 agricultural perspective as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 The Site, which is partly fenced-off and largely hard-paved, currently occupied by some temporary structures and miscellaneous items with patches of vegetation and scattered trees, is located at the southern fringe of Kan Tau Tsuen. Some active farmland is found to the immediate south of the Site (**Plans A-2a, A-4a and A-4b**). The proposed development is not incompatible with the surrounding areas which are of rural character predominated by village houses/domestic structures, active/fallow farmland, vacant land and tree groups or vegetated areas (**Plans A-2a, A-3 and A-4b**). CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective, and considers that significant adverse landscape impact arising from the proposed development is not anticipated. Other relevant government departments consulted, including C for T, 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 30, while the 10-year Small House demand forecast is 130. Based on PlanD’s latest estimate, about 1.68ha (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 approving applications for Small House development since August 2015. 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 11.4 The Site is not the subject of any previous application. There are 57 similar applications within or straddling the same “AGR” zone in the vicinity of the Site (**Plan A-2a**), 29 of which were approved after the formal adoption of a more cautious approach by the Board since August 2015 as detailed in paragraph 6.2 above. The planning circumstances of the current application are generally different from those of the approved applications.
- 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 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 17.4.2030, 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 V**.

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	Application Form with Attachments received on 2.3.2026
Appendix Ia	FI received on 12.4.2026
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
Drawing A-2	Landscape Proposal
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
Plans A-4 and A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2026**