

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LYT/769

- Applicant** : Mr. PANG Pui Wan (with Mr. WAN Ma Sing as power of attorney) represented by Glistar Engineering Consultants Company
- Site** : Lot 1584 S.F in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Area** : About 152m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/18
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, who claimed himself as an indigenous villager of Kan Tau Tsuen¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) which fall within “AGR” zone 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 in “AGR” zone requiring 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 would be used as a garden of the proposed Small House. Layout of the proposed Small House (including a septic tank) is shown on **Drawing A-1**.
- 1.4 The Site is the subject of a previous application (No. A/NE-LYT/592) for Small House development submitted by the same applicant, which was approved with conditions by

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

the Rural and New Town Planning Committee (the Committee) in 2016. Details of the previous application is set out in paragraph 5 below.

- 1.5 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**), which was received on 4.8.2022.

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** and summarized as follows:

- (a) the applicant is an indigenous villager and is entitled to a Small House grant which is being processed by the Lands Department;
- (b) the Site falls within the village ‘environs’ and the proposed use is not incompatible with the surrounding environment and land use; and
- (c) similar applications have been approved in the vicinity of 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 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/592) for Small House development submitted by the same applicant as the current application. The application was approved by the Committee on 10.6.2016 mainly on sympathetic consideration that the proposed Small House is situated in proximity to the existing village houses and approved Small House applications though the land available within the “V” zone was able to meet the outstanding applications at the time of consideration. S.16A application for extension of time for commencement of approved development was submitted and the permission lapsed on 10.6.2022. The applicant has complied with relevant approval condition in relation to the submission of a landscape proposal before the expiry of the planning permission in June 2022. As advised by DLO/N of LandsD, the Small House application was received in 2014 and is under processing. Compared with the last approved scheme, there is no change to the footprint and major development parameters of the proposed Small House under the current application.
- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plan A-2a**.

6. Similar Applications

- 6.1 There are 105 similar applications for Small House development within/partly within the “AGR” zone in the close vicinity of the Sites in the Lung Yeuk Tau and Kwan Tei South area since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Of the 92 approved applications including 40 located in close proximity to the Site, 54 applications were approved by the Committee between March 2001 and January 2015 (i.e. before the adoption of a more cautious approach by the Board) mainly on the 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 ‘VE’ and there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand; and the proposed developments were not expected to have significant adverse traffic, drainage, environmental or landscape impacts on the surrounding area. The remaining 38 applications were approved between December 2015 and September 2020 (i.e. after the Board’s adoption of a more cautious approach) mainly for reasons of being the subject of previously approved applications; the processing of Small House grants was already at an advance stage; the implementation of new Small House under construction and approved Small House development nearby was forming a new village cluster in the locality.
- 6.3 The other 13 applications were rejected by the Committee or the Board on review between September 2003 and November 2020 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 an undesirable precedent for similar applications.
- 6.4 Details of these applications are summarized at **Appendix IV** and the locations of similar applications in the vicinity 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) currently vacant, flat and mainly overgrown with shrubs and grass;
 - (b) located close to the village proper of Kan Tau Tsuen (**Plan A-2a**); and
 - (c) accessible via a local footpath.
- 7.2 The surrounding areas have the following characteristics:
 - (a) rural landscape character dominated by village houses, vacant land and fallow agricultural land;
 - (b) to the immediate north is the site of planning application (No. A/NE-LYT/727) for Small House development which was approved by the Committee on 1.9.2020, and to the further north is the “V” zone of Kan Tau Tsuen where village houses could be found (**Plan A-2a**);

- (c) to the west and east are the sites of a number of planning applications for Small House developments which were approved by the Committee between 2002 and 2019; and
- (d) to the immediate south is the site of planning application (No. A/NE-LYT/600) for Small House development which was approved by the Committee on 14.9.2016, and to the further south are fallow agricultural farmland intermixed with a few temporary structures.

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 in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprint of the proposed Small House	- -	100% 100%	- The Site and the 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, LandsD advises that the footprint of the proposed Small House falls entirely within the ‘VE’ of Kan Tau Tsuen.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Kan Tau Tsuen: about 3.05 ha (equivalent to 122 Small House sites). The outstanding Small House applications for Kan Tau Tsuen is 44 ² while the 10-year Small House demand forecast for

² Among the 44 outstanding Small House applications, 12 of them fall within the “V” zone and 32 straddle or outside the “V” zone. For those 32 applications straddling or being outside the “V” zone, 18 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		Kan Tau Tsuen is 78. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen: about 1.86 ha (equivalent to 74 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) states that the Site is currently an abandoned land. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is not incompatible with the surrounding rural inland plain landscape character comprising farmlands, vegetated areas, clustered tree groups and village houses. (Plan A-2a).
6.	Within Water Gathering Grounds (WGGs)?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe ‘NTEH – A Guide to Fire Safety Requirements’ published by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) advises that Small House developments should be confined within the “V” zone as far as possible. Notwithstanding the above, the application involving the construction of one Small House can be tolerated.
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning point of view. Significant adverse impact on existing landscape resources is not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of Fanling District Rural Committee has no comment on the application.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Detailed comments from government departments are at **Appendix V**.

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

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 12.8.2022, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The remaining comments from two individuals raise objection to the application mainly on the grounds that the proposed development would cause adverse traffic and environmental impacts; causing overcrowding problems; increase the risks of fire, thus threatening the quality of life of residents living nearby and degrading the ecology of the surrounding areas; and that land is available in the “V” zone to meet the outstanding Small House applications.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site zoned “AGR” on the OZP. The proposed Small House development is considered 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 Site, located to the immediate south of the “V” zone of Kan Tau Tsuen, is currently vacant and partly covered by grass. The proposed Small House development is not incompatible with the surrounding rural inland plain landscape character dominated by farmlands, vegetated areas, cluster of tree groups and village houses. CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. C for T has reservation on the application and considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves only one Small House, the application could be tolerated. Other relevant government departments, including CE/MN of DSD, D of FS and CE/C, WSD, have no adverse comment on/no objection to 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**). DLO/N of LandsD advises that the total number of outstanding Small House applications for Kan Tau Tsuen is 44 while the 10-year Small House demand forecast is 78. Based on the latest estimate by PlanD, about 1.86 ha of land (equivalent to 74 Small Houses) is available within the “V” zone concerned (**Plan A-2b**). In this regard, land available within the ‘V’ zone is insufficient to fully meet the future Small House demand of 122 Small Houses. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House developments 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. Nevertheless, it is noted that the Site is in close proximity to existing village proper of Kan Tau Tsuen. There are also existing village houses to the west of the Site and approved Small House applications to the north, east and west at different stages of development. The implementation of those approved Small Houses is forming a new village cluster in the locality. Besides, the Site is the subject of a previously approved application submitted by the same applicant for the same use. Compared with the previous application, the major development parameters and footprint of the proposed

Small House are generally the same. In this regard, sympathetic consideration might be given to the application.

- 11.4 There are 40 similar applications for Small House developments in close proximity to the Site. Of them, 37 applications were approved (**Plan A-2a**). The planning circumstances of the current application are similar to those 17 applications surrounding the Site which were approved by the Committee between 2015 and 2020 mainly on sympathetic considerations that the proposed Small Houses situated in proximity to the existing village houses and approved Small House applications and the implementation of which are forming a new village cluster in the locality; and being the subject of previously approved applications. The remaining 3 similar applications (No. A/NE-LYT/417, 440 and 642) to the south of the Site were rejected by the Committee or the Board on review between 2010 and 2017 mainly on the ground 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.
- 11.5 Regarding the public comments in paragraph 10, 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, 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 23.9.2026, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

- the submission and implementation of a 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 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 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

Appendix I	Application Form with attachments received on 4.8.2022
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Detailed Comments from relevant government departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location 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
SEPTEMBER 2022**