

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/787

- Applicants** : Messrs PANG Chi Tong, PANG Edward Pok Jim, PANG Kai Yin Jake and PANG Kwok Ho represented by Mr CHAN Wai Man
- Site** : Lots 1602 S.A, S.B, S.C and S.D in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Area** : 460.5m² (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/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Four Houses (New Territories Exempted Houses (NTEHs) – Small Houses)

1. The Proposal

1.1 The applicants, who claimed themselves as indigenous villagers of Fanling Heung¹, seek planning permission to build four NTEHs (Small Houses) on the application site (the Site) in Kau Tau Tsuen, Lung Yeuk Tau (**Plan A-1**). The site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/19. 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)’ within “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).

1.2 Details of the applicants and their respective Lot No. (**Plan A-2a**) are as follows:

House	Applicant	Application Lot No.
H1	Mr PANG Chi Tong	Lot 1602 S.A
H2	Mr PANG Edward Pok Jim	Lot 1602 S.B
H3	Mr PANG Kai Yin Jake	Lot 1602 S.C
H4	Mr PANG Kwok Ho	Lot 1602 S.D

¹ According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants’ eligibilities for Small House grant have been ascertained.

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

Total Floor Area	:	195.09m ² (Total 780.36m ²)
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

The applicants indicate that the uncovered area of the Site would be used as garden, and landscape proposal had been submitted and accepted by the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) under the previous approved application No. A/NE-LYT/557 (**Appendix Ib**). The layouts of the proposed Small Houses are shown on **Drawings A-1 to A-4**.

1.4 The Site is the subject of application No. A/NE-LYT/557 submitted by the same applicants for the same use, which was approved with conditions by the Committee on 16.1.2015. Details of the previous application is set out in paragraph 5.1 below. Compared with the previous application, the major development parameters and layouts of the Small Houses are generally the same as the previous ones.

1.5 In support of the application, the applicants have submitted the following documents:

- (a) Application Forms with attachments received on 14.11.2022 (**Appendix Ia**)
- (b) Further Information received on 13.12.2022 (**Appendix Ib**).

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in Part 8 of the Application Form at **Appendix Ia**. They can be summarized as follows:

- (a) the applicants are indigenous villagers who are entitled to the construction of Small Houses under the Government's Small House Policy;
- (b) the Small House applications made by the applicants are currently being processed by District Lands Officer/North, Lands Department (DLO/N, LandsD); and
- (c) the Site is the subject of the previous approved planning application (No. A/NE-LYT/557) which will lapse on 17.1.2023 and LandsD still has not finished processing the Small House applications, so a fresh application is submitted.

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

The applicants are the sole "current land owners" of the respective lots at 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 for New Territories Exempted House (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 application No. A/NE-LYT/557 for proposed four NTEHs (Small Houses) which was approved by the Committee on 16.1.2015, mainly on sympathetic consideration that the proposal was in line with the Interim Criteria in that 50% of the footprint of each of the proposed Small Houses fell within the village “environ” (‘VE’) of Kan Tau Tsuen and there was a general shortage of land within the “V” zone to meet the Small House demand at the time of consideration; the proposed Small House developments were considered not incompatible with the surrounding area of rural landscape character; and possible adverse landscape impact was not anticipated. Subsequently, a s.16A application No. A/NE-LYT/557-1 for extension of time limit for commencement of the approved development was approved by the Director of Planning under the delegated authority of the Board in December 2018. The above planning permission will lapse on 17.1.2023.
- 5.2 Details of the previous application are summarized at **Appendix III** and the location is shown on **Plan A-2a**.

6. Similar Applications

- 6.1 There are 46 similar applications for Small House development within/partly within the same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 44 applications were approved with conditions by the Committee between July 2002 and September 2022. Among them, 22 applications were approved by the Committee between December 2015 and September 2022 after the Board’s formal adoption of a more cautious approach mainly on consideration that the sites were the subject of previous approvals and/or there were Small House applications approved in the vicinity at different stages of development nearby which formed a new village cluster in the locality.
- 6.3 Two applications (No. A/NE-LYT 417 and 440) were rejected by the Committee on review between 2010 and 2011 mainly on the grounds that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell entirely/mainly outside the “V” zone and/or the ‘VE’ of a recognized village; the use under applications was not in line with the planning intention of the “AGR” zone; and approval of the applications would set an undesirable precedent for similar applications, the cumulative effect of approving such similar applications would result in a general degradation of the environment or cause adverse landscape impacts on the area.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4)

- 7.1 The Site is:
- (a) vacant, flat, occupied by a structure and covered with grass;

- (b) accessible via local track leading to Sha Tau Kok Road – Ma Mei Ha; and
- (c) located to the immediate southeast of the existing village proper of Kan Tau Tsuen.

7.2 The surrounding areas have the following characteristics:

- (a) the Site is situated in a rural landscape character dominated by active/fallow agricultural land, village houses and temporary structures;
- (b) to the northwest is the existing village proper of Kan Tau Tsuen (**Plan A-2a**); and
- (c) to the east is Tan Shan River.

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 application has 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.	Within “V” zone? - The Site - Footprint of the proposed Small Houses	- -	100% 100%	The Site of application No. A/NE-LYT/787 falls entirely within “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small Houses	100% 100%	- -	DLO/N, LandsD advises that the Site falls within the ‘VE’ of Kan Tau Tsuen ² .

² Based on PlanD’s calculation, 2.2% of the Lot 1602 S.D in D.D.76 (House 4) falls outside 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 application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Kan Tau Tsuen: about 3.08 ha (equivalent to 123 Small House sites). The outstanding Small House applications for Kan Tau Tsuen village cluster are 45 ³ while the 10-year Small House demand forecast for the same village cluster is 78.
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen village cluster: about 1.87 ha (equivalent to 74 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone? (not yet replied)		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation. 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.
5.	Compatible with surrounding area/development?	✓		The proposed Small Houses are not incompatible with the surrounding landscape character dominated by village houses and active/fallow agricultural land (Plan A-2a).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

³ Among the 45 outstanding Small House applications, 14 of them fall within the “V” zone and 31 straddle or outside the “V” zone. For those 31 applications straddling or being outside the “V” zone, 18 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		Commissioner for Transport (C for T) considers that Small House developments should be confined within the "Village Type Development" ("V") zone as far as possible but given that the propose developments only involve construction of four Small Houses, the application 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.	Sewerage impact?		✓	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?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from landscape planning point of view. Significant adverse impact on existing landscape resources is not anticipated. An approval condition on the submission and implementation of a revised landscape proposal is recommended.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by DO?	✓		District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of Fanling District Rural Committee, the Chairman of Lung Shan Area Committee, the Indigenous Inhabitant Representative (IIR) of Kan Tau Tsuen and the Resident Representative (RR) of Kan Tau Tsuen have no comment on the application.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C,WSD); and
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

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

On 22.11.2022, the application was published for public inspection. During the statutory public inspection period, three public comments were received. While the Chairman of Sheung Shui District Rural Committee indicates no comment on the application, two individuals object to the application mainly on the grounds that land is still available in the “V” zone to meet the outstanding Small House applications for Kan Tau Tsuen; and the approval of the application would cause adverse traffic and environmental impacts on the surrounding areas and increase fire risk, thereby affecting the quality of life and safety of nearby residents.

11. Planning Considerations and Assessment

11.1 The application includes four proposed Small Houses on respective lots at the Site, which fall entirely within “AGR” zone on the OZP. The proposed developments are not in line with the planning intention of the “AGR” zone as set out in paragraph 8 above. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation.

- 11.2 The Site is vacant, flat, occupied by a structure and covered with grass. The village proper of Kan Tau Tsuen is located to the northwest and there are approved Small House applications in the vicinity of the Site. The proposed Small Houses are not incompatible with the surrounding area of rural landscape character dominated by village houses and fallow agricultural land. As significant adverse landscape impact arising from the proposed developments is not anticipated, CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that the application involves construction of four Small Houses only, the application could be tolerated from traffic impact perspective. Other relevant government departments consulted, including DEP, CE/C, WSD, CE/MN of DSD and D of FS, have no objection to or no comment on the applications. Approval conditions are suggested in paragraph 12.2 below to address the requirements of relevant departments.
- 11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of four proposed Small Houses fall entirely within the ‘VE’ of Kan Tau Tsuen whereas a minor portion of the lot of H4 falls outside the ‘VE’. DLO/N of LandsD advises that the number of outstanding Small House applications for Kan Tau Tsuen village cluster is 45 while the 10-year Small House demand forecast is 78. Based on PlanD’s latest estimate, about 1.87 ha (equivalent to 74 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 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 developments within the “V” zones for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, it is noted that there are new Small Houses under construction and approved Small House applications at different stages of development nearby, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Besides, the Site is the subject of the previous approved application (No. A/NE-LYT/557) submitted by the same applicants for the same use. Compared with the previous application, the major development parameters and footprints of the proposed Small houses under the current application are generally the same. In this regard, sympathetic consideration might be given to the application.
- 11.4 There are 46 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**). Among them, 22 applications were approved by the Committee between December 2015 and September 2022 after the Board’s formal adoption of a more cautious approach mainly on consideration that the sites were the subject of previous approvals and/or there were Small House applications approved in the vicinity at different stages of development nearby which formed a new village cluster in the locality. The planning circumstances of the current application are similar to these approved applications.
- 11.5 Regarding the public comments mentioned in paragraph 10 above, 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 13.1.2027, 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 submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission and implementation of a revised landscape proposal to the satisfaction of the Director of Planning 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 developments are 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 applicants.

14. Attachments

Appendix Ia	Application Form with attachments received on 14.11.2022
Appendix Ib	Further Information received on 12.12.2022
Appendix II	Relevant Interim Criteria for Consideration of Application for New

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

PLANNING DEPARTMENT
JANUARY 2023