

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE- LYT/790 and 791

- Applicants** : Mr LAM Ka Hung (Application No. A/NE-LYT/790)
Mr LAM Ka Yee (Application No. A/NE-LYT/791)

all represented by Euro Asia Construction Engineering Limited
- Sites** : Lots 614 S.A ss.2 and 614 S.B ss.2 (Application No. A/NE-LYT/790)
Lots 614 S.A RP and 614 S.B RP (Application No. A/NE-LYT/791)

all in D.D. 83, Kwan Tei Village, Fanling, New Territories
- Site Areas** : 111.5m² (about) (Application No. A/NE-LYT/790)
115.7m² (about) (Application No. A/NE-LYT/791)
- 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
- Zonings** : Application No. A/NE-LYT/790
“Agriculture” (“AGR”) (about 65.5m² or 58.7% of the site)
“Village Type Development” (“V”) (about 46m² or 41.3% of the site)

Application No. A/NE-LYT/791
“AGR” (about 58.4m² or 50.5% of the site)
“V” (about 57.3m² or 49.5% of the site)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House) at
each of the application sites

1. The Proposals

- 1.1 The applicants, who claim themselves as indigenous villagers of Tsz Tong Tsuen, Fanling Heung¹, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Kwan Tei Village. The Sites fall within an area partly zoned “AGR” and partly zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, while ‘House (NTEH only)’ is always permitted in the “V” zone, such use in

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

the “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).

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

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

The applicants indicate that the uncovered area of the Sites would be used for landscape area. The layouts of the proposed Small Houses are shown on **Drawings A-1 to A-2**.

1.3 Each of the Sites is the subject of a previous approved application submitted by the same applicant under the current application for the same use. Details of the previous applications are set out in paragraph 5.1 below. Compared with the previous applications, the major development parameters and layouts of the Small Houses are generally the same as the current ones.

1.4 In support of the applications, the applicants have submitted the application forms with attachments received on 6.12.2022 (**Appendices Ia to Ib**).

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 8 of the Application Forms at **Appendices Ia and Ib**, and summarized below:

- (a) the Sites are the subject of previous approved planning applications (No. A/NE-LYT/587 and 588). LandsD has not finished processing the Small House applications before the expiry of the previous planning permission on 5.2.2020, so fresh applications are required;
- (b) the Sites are the applicants’ only land available for building Small Houses;
- (c) the Sites are vacant, and the proposed Small Houses at the Sites would be considered compatible with the surrounding environment with village settings;
- (d) the proposed Small Houses will not induce significant traffic impact; and
- (e) there are similar applications approved in the vicinity of the Site.

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

The applicants are the sole “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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Applications

- 5.1 Each of the Sites for application No. A/NE-LYT/790 and 791 is the subject of a previous approved application (No. A/NE-LYT/587 and 588) respectively submitted by the same applicant as the current application for the same use. They were approved with conditions by the Committee on 5.2.2016 mainly on sympathetic consideration of being in line with the Interim Criteria in that more than 50% of the footprints of proposed Small Houses fell within the “V” zone of Kwan Tei Village; the Sites were in close proximity to the existing village proper of Kwan Tei Village; there were approved Small House applications nearby; and concerned government departments had no objection to the applications. Planning permissions lapsed on 6.2.2020.
- 5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are nine similar applications for Small House development within / partly within the “AGR” zone in the 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 For the seven approved applications, three applications (No. A/NE-LYT/390, 527 and 553) were approved with conditions by the Committee between March 2009 and December 2014 (i.e. before the formal adoption of a more cautious approach since August 2015) mainly on the grounds that the applications complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘village environs’ (‘VE’) and/or there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand at the time of consideration; 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 areas; and similar applications had been approved by the Committee.
- 6.3 Four applications (No. A/NE-LYT/603, 682, 721 and 722) were approved by the Committee between February 2017 and May 2020 (i.e. after the formal adoption of a more cautious approach since August 2015) mainly on the grounds that the application sites were in close proximity to the existing village proper of Kwan Tei Village and there were approved Small House applications nearby forming a new cluster in the locality and the scope of extending the village to the “AGR” zone to the further east is limited and/or the sites were the subject of previous approvals.
- 6.4 Two applications (No. A/NE-LYT/399 and 400) were rejected by the Committee of the Board in 2009 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

outside the “V” zone and 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 in the area.

- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

7.1 The Sites are:

- (a) flat, fallow agricultural land and mainly covered by grass/shrub;
- (b) located to the immediate east of the existing village cluster of Kwan Tei Village (**Plan A-2a**); and
- (c) accessible via a footpath.

7.2 The surrounding areas have the following characteristics:

- (a) the Sites are situated in an area of rural landscape character dominated by village houses, active/fallow agricultural land and clusters of tree groups;
- (b) to the west of the Sites is the existing village cluster of Kwan Tei Village;
- (c) to the north, east and south are mainly active / fallow agricultural land and vacant land; and
- (d) to the further north is the vacant former Kwan Tei Public School falling within a site zoned “Government, Institution or Community” on the OZP.

8. Planning Intentions

- 8.1 The planning intention of the “AGR” zone in Lung Yeuk Tau and Kwan Tei South area 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.
- 8.2 The planning intention of the “V” zone in the Lung Yeuk Tau and Kwan Tei South area is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9. Comments from Relevant Government Departments

- 9.1 The applications have 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.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - The Sites (Application No. A/NE-LYT/790) (Application No. A/NE-LYT/791) - Footprints of the proposed Small Houses (Application No. A/NE-LYT/790) (Application No. A/NE-LYT/791) 	<p>41.3%</p> <p>49.5%</p> <p>64.7%</p> <p>57.8%</p>	<p>58.7%</p> <p>50.5%</p> <p>35.3%</p> <p>42.2%</p>	<p>The Sites of applications No. A/NE-LYT/790 and 791 fall partly within “AGR” zone and partly within “V” zone.</p>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - The Sites (Application No. A/NE-LYT/790) (Application No. A/NE-LYT/791) - Footprints of the proposed Small Houses (Application No. A/NE-LYT/790) (Application No. A/NE-LYT/791) 	<p>27.9%</p> <p>28%</p> <p>41.7%</p> <p>29.1%</p>	<p>72.1%</p> <p>72%</p> <p>58.3%</p> <p>70.9%</p>	<p>District Lands Office/North, Lands Department (DLO/N, LandsD) advises that the Sites and the footprints of the proposed Small Houses partly fall within the ‘VE’ of Kwan Tei Village.</p>
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u> Land required to meet the Small House demand in Kwan Tei Village village cluster: about 10.6 ha (equivalent to 424 Small House sites). The outstanding Small House applications for Kwan Tei Village village cluster are 45² while the 10-year Small House demand forecast for the same village cluster is 379.</p>

² Among the 45 outstanding Small House applications, 28 of them fall within the “V” zone and 17 straddle or outside the “V” zone. For those 17 applications straddling or being outside the “V” zone, 9 of them have obtained valid planning approvals 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?	✓		<u>Land Available</u> Land available to meet the Small House demand within the “V” zone of Kwan Tei Village village cluster: about 2.52 ha (equivalent to about 100 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The proposed Small Houses are not incompatible with the surrounding rural setting and environment 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?		✓	
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 applications. 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) advises that Small House developments should be confined within the “V” zone as far as possible. Notwithstanding the above, each 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 applications and advises that an approval condition on the submission and implementation of drainage proposal is required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewage impact?		✓	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?		✓	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.
13.	Local objection conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N), HAD) advises that he has consulted the locals. The Chairman of Fanling District Rural Committee, the Chairman of Lung Shan Area Committee and one Indigenous Inhabitant Representative (IIR) of Kwan Tei Village have no comment on the applications. The incumbent North District Councilor of N18 Constituency, the Resident Representative (RR) of Kwan Tei Village and another IIR of Kwan Tei Village have not replied HAD.

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) DAFC;
- (g) D of FS; and
- (h) DO(N), HAD

9.3 The following government departments have no objection to/no comment on the applications:

- (a) Chief Engineer/Construction, Water Supplies Department; and
- (b) Chief Highway Engineer/New Territories East, Highways Department.

10. Public Comments Received During Statutory Publication Period

On 13.12.2022, the applications were published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix VI**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the applications. Two individuals object to the applications on the grounds that land is still available in the “V” zone to meet the outstanding Small House applications for Kwan Tei Village; the living environment is already very dense; and the proposed developments would induce adverse impacts in terms of traffic, environment, fire risk, resident’s safety and living quality.

11. Planning Considerations and Assessments

- 11.1 These applications are for a proposed Small House at each of the Sites which fall within an area partly zoned “AGR” and partly zoned “V” on the OZP. The proposed developments are not in line with the planning intention of the “AGR” zone as set out in paragraph 8.1 above. DAFC does not support the applications from the agricultural development point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 The Sites are flat and mostly covered with grass and shrubs. The village proper of Kwan Tei Village is located to the west and there are approved Small House applications in the vicinity of the Sites. The proposed Small Houses are not incompatible with the surrounding rural setting dominated by village houses, active/fallow agricultural land and clusters of tree groups. As significant adverse landscape impact arising from the proposed developments is not anticipated, CTP/UD&L, PlanD has no objection to the applications 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 each application involves one Small House only, the applications could be tolerated from traffic impact perspective. Other relevant government departments consulted, including DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no objection to or no comment on the applications. Approval condition is suggested in paragraph 12.2 below to address the requirements of relevant department.
- 11.3 Regarding the Interim Criteria (**Appendix II**), more than 50% of each proposed Small House footprint falls within the “V” zone of Kwan Tei Village. DLO/N of LandsD advises that the number of outstanding Small House applications for Kwan Tei village cluster is 45 while the 10-year Small House demand forecast is 379. Based on PlanD’s latest estimate, about 2.52 ha (equivalent to about 100 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Kwan Tei Village 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 also noted that there are 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, each of the Sites is the subject of a previous approved application submitted by the same applicant for the same use. Compared with the previous applications, the major development parameters and footprints of the proposed Small Houses under the

current applications are generally the same. In this regard, sympathetic consideration might be given to the applications.

- 11.4 There are nine similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**). Among them, four applications were approved by the Committee between February 2017 and May 2020 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 applications are similar to those approved applications.
- 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 applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 3.2.2027, and after the said date, the permissions 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

- (a) 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 applications, 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 applications and decide whether to grant or refuse to grant the permissions.

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 permissions, and the date when the validity of the permissions 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 Ib	Application Forms with Attachments received on 6.12.2022
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 Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-2	Proposed Small Houses Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “Village Type Development” (“V”) zone of Kwan Tei Village
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2023**