

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/808

- Applicants** : (i) Mr PANG Sean Yuen
(ii) Mr PANG Hey Chiu

all represented by Miss TANG Sau Fong
- Site** : (i) Lots 1587 S.B ss.6 S.A, 1587 S.B ss.7 S.B and 1587 S.B ss.13; and
(ii) Lots 1587 S.B ss.6 S.B and 1587 S.B ss.15

both in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
- Site Area** : 236.6 m² (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 Two Houses (New Territories Exempted Houses (NTEHs) –
Small Houses)

1. The Proposal

- 1.1 The applicants, who claim themselves as indigenous villagers of Fanling Village of Fanling Heung¹, seek planning permissions to build two proposed NTEHs (Small Houses) on the application site (the Site) in Kan Tau Tsuen, Fanling (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the OZP. According to the Notes of the OZP, ‘House (NTEH only)’ is a Column 2 use within the “AGR” zone 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

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

The applicants indicate that the uncovered areas of their Sites would be used as garden. The layouts of the proposed Small Houses (including septic tanks) are shown in **Drawings A-1 to A-5**.

1.3 The Site is the subject of a previously approved application No. A/NE-LYT/583 submitted by the same applicants under the current application for the same use. Details of the previous application are set out in paragraph 5.2 below. Compared with the previous application, the major development parameters and layouts of the Small Houses are generally the same as the current one.

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

- (a) Application Form with attachments received on 31.8.2023 (Appendix I)
- (b) Further Information (FI) received on 11.10.2023 (Appendix Ia)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed at **Appendix I** and summarized as follows:

- (a) the Site is the subject of previously approved planning application (No. A/NE-LYT/583) submitted by the same applicants. Compared with the previous approval, there is no change in terms of development parameters and layouts of the proposed Small House and the relevant Small House applications are still being processed by LandsD;
- (b) as the previous planning permission covering the Site will lapse soon, a fresh application is therefore required; and
- (c) the proposed Small Houses would not induce any drainage, traffic, landscape, environmental impacts on the surrounding areas.

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

The applicants are the sole “current land owner” of respective lots 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 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 The Site, in part or in whole, is the subject of two previous applications (No. A/NE-LYT/417 and 583) (**Plan A-2a**). A small part of the Site (about 16.9%) is the subject of a previous application No. A/NE-LYT/417 for Small House development

submitted by a different applicant. The application was rejected by the Rural and New Town Planning Committee (the Committee) on 19.3.2010 mainly on the grounds that the application did not comply with the Interim Criteria in that the footprint of the proposed Small House fell mainly outside the village ‘environs’ (‘VE’) of Kan Tau Tsuen and there was no shortage of land in meeting the demand for Small House development, and the setting of undesirable precedent for similar cases in the area.

- 5.2 Application No. A/NE-LYT/583 involves the same site submitted by the same applicants as the current one. The application was approved by the Committee on 18.12.2015 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 ‘VE’ of Kan Tau Tsuen; the site was in close proximity to the existing village proper of Kan Tau Tsuen; there were approved Small House applications nearby; and government departments concerned had no objection to the application. The above planning permission will lapse on 18.12.2023.
- 5.3 Details of the previous applications are summarized at **Appendix III** and the location is shown on **Plan A-2a**.

6. Similar Applications

- 6.1 There have been 54 similar applications for Small House development within/partly within the same “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 Among them, 26 applications were approved by the Committee between July 2002 and January 2011 before the Board’s formal adoption of a more cautious approach since August 2015². 26 applications were approved by the Committee between June 2016 and January 2023 after the Board’s formal adaption of a more cautious approach mainly on sympathetic 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 clusters in the locality.
- 6.3 Two applications (No. A/NE-LYT 440 and 642) were rejected by the Board on review or by the Committee in 2011 and 2017 respectively mainly on the grounds that the proposed Small House developments did not comply with the Interim Criteria as the entire or more than 50% of the footprint of the proposed Small House fell outside the ‘VE’ and “V” zone of Kan Tau Tsuen; approval of the application would set an undesirable precedent for similar application in the “AGR” zone; the proposed development was not in line with the planning intention of “AGR” zone; and land was still available within the “V” zone concerned.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

² Among 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, A-2a and A-2b, A-3 and A-4)

7.1 The Site is:

- (a) mainly vacant, flat and covered with grass and trees;
- (b) traversed by an existing footpath in its northern boundary (**Plans A-2a and A-4**); and
- (c) located to the south of the “V” zone of Kan Tau Tsuen.

7.2 The surrounding areas are in a rural landscape character dominated by village houses, vacant land and fallow agricultural land. To the north is the village proper of Kan Tau Tsuen. To the immediate north and east of the Site are the sites of a number of approved applications for Small House developments and to the further south 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 falls entirely within “AGR” zone.
	- The Site	-	100%	
	- Footprints of the proposed Small Houses	-	100%	
2.	Within ‘VE’?			
	- The Site			
	(i) Lots 1587 S.B ss.6 S.A, 1587 S.B ss.7 S.B and 1587 S.B ss.13	52.8%	47.2%	DLO/N advises that the footprints of proposed Small Houses fall partly/entirely within the ‘VE’ of Kan Tau Tsuen.
	(ii) Lots 1587 S.B ss.6 S.B and 1587 S.B ss.15	98.6%	1.4%	
	- Footprints of the proposed Small Houses			
	(i) Lots 1587 S.B ss.6		40.4%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	S.A, 1587 S.B ss.7 S.B and 1587 S.B ss.13 (ii) Lots 1587 S.B ss.6 S.B and 1587 S.B ss.15	59.6% 100%	-	
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 4.4 ha (equivalent to 176 Small House sites). The outstanding Small House applications for Kan Tau Tsuen village cluster are 46 ³ while the 10-year Small House demand forecast for the same village cluster is 130.
	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?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective 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 areas/development?	✓		The proposed Small Houses are not incompatible with the surrounding areas dominated by village houses, vegetated areas, clusters of tree and temporary structures (Plan A-2a).

³ Among the 46 outstanding Small House applications, 14 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, 14 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within Water Gathering Ground?		✓	
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 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. Although additional traffic generated by the proposed developments is not expected to be significant, such type of developments outside the "V" zone, if permitted, will set an undesirable precedent case for similar applications in future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, application involving the construction of two Small Houses could be tolerated.
10.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.
11.	Sewerage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the application is unlikely to cause major pollution.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective. Further significant adverse impact on existing landscape resources within the site and the landscape character arising from the proposed use is not anticipated.
13.	Local objections conveyed by DO?	✓		District Officer (North), Home Affairs Department (DO(N), HAD) advises that he has consulted the locals. The Chairman, 1 st Vice-Chairman and Vice-Chairman of Fanling District Rural Committee, the Chairman of Lung Shan Area Committee, the Resident Representative of Kan Tau Tsuen object to the application mainly on the grounds that the applicants are not indigenous villagers of Kan Tau Tsuen and the proposed developments would cause traffic and drainage impacts on the surrounding areas. The Indigenous Inhabitant Representative of Kan Tau Tsuen has no comment. The incumbent North District Councilor of N18 Constituency has not replied him.

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;
- (h) DO(N), HAD;
- (i) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C,WSD); and
- (b) Project Manager (New Territories East), Civil Engineering and Development Department (PM(NTE), CEDD).

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

On 15.9.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received. While the Chairman of Sheung Shui District Rural Committee indicates no comment on the application, the remaining three public comments from the Chairman, First Vice-Chairman, Vice-Chairman of Fanling District Rural Committee raise objection to the application mainly on the grounds that the applicants are not indigenous villagers of Kan Tau Tsuen and the proposed developments would cause traffic and drainage impacts on the surroundings.

11. Planning Considerations and Assessment

- 11.1 The application is for two proposed Small Houses at the Site zoned “AGR” 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 perspective 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 also available. DAFC advises that the Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
- 11.2 The Site is situated in an area of rural landscape predominated by village houses, clusters of tree groups and vegetated area. The proposed Small Houses are not incompatible with the surrounding areas. As further significant adverse impact on existing landscape resources within the Site and the landscape character arising from the proposed development is not anticipated, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that application involves construction of two Small Houses only, the application 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 adverse comment on the application.
- 11.3 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Kan Tau Tsuen (**Plan A-2a**). DLO/N of LandsD advises that the number of outstanding Small House applications for Kan Tau Tsuen village cluster is 46 while the 10-year Small House demand forecast is 130. 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 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 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 a previously approved application (No. A/NE-LYT/583) 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 the same. DLO/N advises that the Small House applications are still under processing. In this regard, sympathetic consideration may be given to the application.

- 11.4 There are 26 similar applications for Small House developments in the vicinity of the Sites (**Plan A-2a**), which are approved by the Committee between June 2016 and January 2023 after the Board's formal adaption of a more cautious approach mainly on sympathetic 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 clusters in the locality. The planning circumstances of the current application are similar to those approved applications with previous approval submitted by the same applicants (i.e. A/NE-LYT/787, 769, 667, 666, and etc.).
- 11.5 Regarding the local comments conveyed by DO(N) of HAD and public comments on the application as detailed in paragraphs 9.1 and 10 respectively, 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 local comments conveyed by DO(N) of HAD and public comments as detailed in paragraphs 9.1 and 10 respectively, 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 27.10.2027, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted commences or the permission is renewed. The recommended advisory clauses are attached at **Appendix VII**.
- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
 - (a) the proposed development is not in line with the planning intention of the "AGR" zone in the Lung Yeuk Tau and Kwan Tei South area 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 more orderly development pattern, efficient use of land and provision of infrastructures and services.

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 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 I	Application Form with attachments received on 31.8.2023
Appendix Ia	FI received on 11.10.2023
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in New Territories
Appendix III	Previous Applications
Appendix IV	Similar s.16 Applications for Proposed House (NTEH - Small House) in the vicinity of the Site within / partly within the same “AGR” Zone on the Lung Yeuk Tau & Kwan Tei South OZP
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-5	Proposed Small Houses Layout Plans
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
Plans A-4a and 4b	Site Photo

**PLANNING DEPARTMENT
OCTOBER 2023**