

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-LYT/812**

<b><u>Applicant</u></b>	: Mr LEE Yung Kwan represented by Sunford Construction Engineering Limited
<b><u>Site</u></b>	: Lot 1575 RP in D.D. 83, Tung Kok Wai, Lung Yeuk Tau, Fanling, New Territories
<b><u>Site Area</u></b>	: 102.9m <sup>2</sup> (about)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

- 1.1 The applicant, who claims himself to be an indigenous villager of Ko Po Village of Fanling Heung<sup>1</sup>, seeks planning permission to build a proposed NTEH (Small House) on the application site (the Site) in Tung Kok Wai, Fanling (**Plan A-1**). 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 which requires 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 <sup>2</sup>
Number of Storeys	: 3
Building Height	: 8.23m
Roofed over Area	: 65.03m <sup>2</sup>

The applicant indicates that the uncovered areas of the Site would be used as garden. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.

---

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

- 1.3 The applicant has submitted Application Form with attachments which was received on 30.10.2023 (**Appendix I**).

**2. Justification from the Applicant**

The applicant indicates that he is an indigenous villager of Ko Po Village of Fanling Heung and would like to build a Small House development for his family in future as mentioned in the Application Form at **Appendix I**.

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

The applicant is the sole “current land owner” of the respective lot. 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**

There is no previous application for the Site.

**6. Similar Applications**

- 6.1 There have been seven similar applications for Small House developments 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 Among them, five applications (No. A/NE-LYT/306, 377, 522, 523 and 525) were approved/partially approved<sup>2</sup> by the Committee between June 2005 and January 2014 before the Board’s formal adoption of a more cautious approach since August 2015<sup>3</sup>. Two applications (No. A/NE-LYT/744 and 745) were approved by the Committee in February 2022 after the Board’s formal adoption of a more cautious approach mainly on sympathetic consideration that the sites were located close to the existing village cluster with existing and approved Small Houses to the east, Small House grant application sites which would be permitted to the immediate west, and some domestic structures to the north and “V” zone to the south.

---

<sup>2</sup> For application No. A/NE-LYT/306 involving proposed Two NTEHs (Small Houses), only one is approved while the other one is rejected mainly on grounds that the proposed development was not in line with the planning intention of “AGR” zone; the proposed development did not comply with the interim criteria as majority portion of the application site was outside the “VE” and the entire site was outside the “V” zone of surrounding village; and the approval of the application would set an undesirable precedent for other similar applications.

<sup>3</sup> 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.

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

## **7. The Site and Its Surrounding Areas (Plans A-1, A-2a to A-2c, A-3 and A-4)**

7.1 The Site is:

- (a) vacant, flat and covered with grass;
- (b) traversed by an existing footpath in its ~~eastern~~ **southern** boundary (**Plans A-2a and A-4**); and
- (c) located to the northeast of the southern portion of Lung Yeuk Tau village cluster<sup>4</sup> (**Plan A-2a**).

7.2 The surrounding areas are in a rural landscape character dominated by active/fallow agricultural land, village houses, tree clusters and vacant land.

## **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 at **Appendix II**. The assessment is summarised in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone?			The Site falls entirely within “AGR” zone.
	- The Site	-	100%	
	- Footprint of the proposed Small House	-	100%	

<sup>4</sup> Lung Yeuk Tau village cluster comprises seven villages of Lung Yeuk Tau (i.e. San Uk Tsuen, San Wai, Wing Ning Tsuen, Wing Ning Wai, Ma Wat Tsuen, Tung Kok Wai and Lo Wai), Ma Wat Wai and Tsz Tong Tsuen, and is separated by the Sha Tau Kok Road – Lung Yeuk Tau into two portions. San Uk Tsuen and San Wai fall within the northern portion while the remaining villages fall within the southern portion.

2.	<p>Within village ‘environs’ (‘VE’)?</p> <ul style="list-style-type: none"> <li>- The Site</li> <li>- Footprint of the proposed Small House</li> </ul>	<p>81.8%</p> <p>76.4%</p>	<p>18.2%</p> <p>23.6%</p>	<p>DLO/N advises that majority of the Site falls within the ‘VE’ of Wing Ning Wai, Wing Ning Tsuen, Tung Kok Wai, Ma Wat Tsuen, Ma Wat Wai, Tsz Tong Tsuen and Lo Wai.</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></p> <ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Lung Yeuk Tau village cluster: about 17.58 ha (equivalent to 703 Small House sites). The outstanding Small House applications for Lung Yeuk Tau village cluster are 118<sup>5</sup> while the 10-year Small House demand forecast for the same village cluster is 585.</li> </ul>
	<p>Sufficient land in “V” zone to meet outstanding Small House application?</p>	✓		<p><u>Land Available</u></p> <ul style="list-style-type: none"> <li>- Land available to meet the Small House demand within the “V” zone of Lung Yeuk Tau village cluster: about 10.58 ha (equivalent to 423 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	<p>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.</p>

<sup>5</sup> Among the 118 outstanding Small House applications, 72 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, two of them have obtained valid planning approvals from the Board. 29 outstanding Small House applications fall within the Village Expansion Area.

5.	Compatible with surrounding areas/development?	✓		The proposed Small Houses are not incompatible with the surrounding areas dominated by village houses, active/fallow agricultural land, tree clusters and vacant land ( <b>Plan A-2a</b> ).
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 applicant is 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 development is not expected to be significant, such type of development 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, the application only involving the construction of one Small House 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 development, the application is unlikely to cause major pollution.

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. 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 Village Representative of Lung Yeuk Tau supports the application. The Chairman of Fanling District Rural Committee and the Chairman of Lung Shan Area Committee have no comment. Three Indigenous Inhabitant Representatives and the Resident Representative of Lung Yeuk Tau 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 IV**.

- (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 V)**

On 7.11.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received. While the Chairman of Sheung Shui District Rural Committee indicates no comment on the application, the remaining public comment from an individual raises objection to the application mainly on the grounds that land is still available within “V” zone and the footprint of the proposed house falls entirely within the “AGR” zone.

## **11. Planning Considerations and Assessment**

- 11.1 The application is for a proposed Small House at the Site zoned “AGR” on the OZP. The proposed development is 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 Site 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, active/fallow agricultural land, tree clusters and vacant land. The proposed Small House is not incompatible with the surrounding areas. As significant adverse impact on the 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 the application involves construction of one Small House 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 footprint of the proposed Small House falls within the ‘VE’ of Wing Ning Wai, Wing Ning Tsuen, Tung Kok Wai, Ma Wat Tsuen, Ma Wat Wai, Tsz Tong Tsuen and Lo Wai (**Plan A-2a**). DLO/N of LandsD advises that the number of outstanding Small House applications for Lung Yeuk Tau village cluster is 118 while the 10-year Small House demand forecast is 585. Based on PlanD’s latest estimate, about 10.58 ha (equivalent to 423 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Lung Yeuk Tau village cluster 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.

- 11.4 There are two similar applications for Small House developments in the vicinity of the Sites (**Plan A-2a**), which are approved by the Committee in February 2022 after the Board's formal adaption of a more cautious approach mainly on sympathetic consideration that the sites were located close to the existing village cluster with existing and approved Small Houses to the east, Small House grant application sites which would be permitted to the immediate west, and some domestic structures to the north and "V" zone to the south. Compared to the approved applications, the Site is located further from the existing village cluster. Except an existing house to its southeast, there are no existing Small Houses nearby, but active agricultural land to the north and south, and domestic structures to the east and west. Hence, the planning circumstances of the current application are different from the approved applications.
- 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 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 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 Lung Yeuk Tau village cluster 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.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 22.12.2027, 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 VI**.



### **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**

<b>Appendix I</b>	Application Form with attachments received on 30.10.2023
<b>Appendix II</b>	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in New Territories
<b>Appendix III</b>	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
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Small House Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b to 2c</b>	Estimated Amount of Land Available within the “V” zone of Lung Yeuk Tau village cluster for Small House Developments
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
DECEMBER 2023**