

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LYT/829 and 830

<u>Applicants</u>	: Mr. NG Yuk Fai Mr. NG Yuk Lung both represented by Glister Engineering Consultants Company	(Application No. A/NE-LYT/829) (Application No. A/NE-LYT/830)
<u>Sites</u>	: Lot 1533 S.E Lot 1533 S.F both in D.D. 76, Kan Tau Tsuen, Fanling, New Territories	(Application No. A/NE-LYT/829) (Application No. A/NE-LYT/830)
<u>Site Areas</u>	: 105m ² (about) 148m ² (about)	(Application No. A/NE-LYT/829) (Application No. A/NE-LYT/830)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)	
<u>Plan</u>	: Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19	
<u>Zoning</u>	: “Agriculture” (“AGR”)	
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House) on each of the application sites	

1. The Proposals

1.1 The applicants, who claim themselves as indigenous villagers of Kan Tau Tsuen of Fanling Heung¹, seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) falling within an area zoned “AGR” on the OZP (**Plans A-1 and A-2a**). 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 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 As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants’ eligibilities for Small House grants have yet to be ascertained.

- 1.3 The applicants indicate that the uncovered area of each of the Sites would be used as garden. The layout of the proposed Small Houses (including septic tank) are shown in **Drawings A-1 and A-2**.
- 1.4 In support of the applications, the applicants have submitted the Application Forms with attachments received on 16.5.2024 (**Appendices Ia and 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**. They can be summarized as follows:

- (a) the applications are made on urgent and bona fide need basis;
- (b) the Sites fall within the village 'environs' ('VE') and the applicants are indigenous villagers who are entitled to Small House grant in accordance with the Small House Policy;
- (c) the proposed Small Houses are compatible with the surrounding areas; and
- (d) there are some similar approved Small Houses applications in the vicinity of the Sites.

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

The applicants are the sole "current land owners" of the respective lots of the Sites. 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

There is no previous application at the Sites.

6. Similar Applications

- 6.1 There have been 29 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, 20 applications were approved by the Rural and New Town Planning Committee (the Committee) between May 2002 and January 2011 before the Board's

formal adoption of a more cautious approach since August 2015². Seven applications were approved by the Committee between June 2018 and August 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 new village clusters in the locality.

- 6.3 For the two rejected applications covering a same site, they were rejected by the Committee in 2011 mainly for reasons of being not complying with the Interim Criteria in that the footprint of the proposed Small House fell entirely outside the 'VE' and/or "V" zone of Kan Tau Tsuen and/or would partially block an existing road; and/or it was considered not in line with the planning intention of "AGR" zone.
- 6.4 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

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

7.1 The Sites are:

- (a) vacant and flat;
- (b) mostly located within the 'VE' of Kan Tau Tsuen and are located to the west of the "V" zone of Kan Tau Tsuen; and
- (c) abutting a local track leading to Sha Tai Kok Road – Ma Mei Ha.

7.2 The surrounding areas are in a rural landscape character dominated by village houses, farmlands, vegetated areas and tree clusters. To the northeast and southeast is the village proper of Kan Tau Tsuen.

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 applications have been assessed against the assessment criteria at **Appendix II**. The assessment is summarized in the following table:

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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Sites - Footprints of the proposed Small Houses	- -	100% 100%	The Sites and footprints of the proposed Small Houses fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Sites - Footprint of the proposed Small Houses	83% (A/NE- LYT/829) 97% (A/NE- LYT/830) 100% (A/NE- LYT/829 and 830)	17% (A/NE- LYT/829) 3% (A/NE- LYT/830) - -	DLO/N, LandsD advises that the majority of the Sites fall within the ‘VE’ of Kan Tau Tsuen.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Kan Tau Tsuen: about 4.25 ha (equivalent to 170 Small House sites). The outstanding Small House applications for Kan Tau Tsuen are 40 ³ while the 10-year Small House demand forecast for the same village is 130.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen: about 1.81 ha (equivalent to 72 Small House sites) (Plan A-2b).

³ Among the 40 outstanding Small House applications, 14 of them fall within the “V” zone and 26 straddle or outside the “V” zone. For those 26 applications straddling or being outside the “V” zone, 13 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural perspective as the Site possess potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Sites 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, farmland, vegetated areas and tree clusters (Plans A-2a and A-3).
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 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. Although additional traffic generated by the proposed developments are 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, the applications only involve development of one Small House at each of the Sites could be tolerated on traffic grounds.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications.
11.	Sewerage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications are 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 applications from the landscape planning perspective. Significant adverse impact on existing landscape resources within the Sites 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 issued consultation letters to the Chairman of Lung Shan Area Committee, the Indigenous Inhabitant Representative and the Resident Representative of Kan Tau Tsuen.

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) C for T;
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) DEP;
- (e) CTP/UD&L, PlanD;
- (f) CE/MN, DSD;
- (g) DAFC;
- (h) D of FS; and
- (i) DO(N), HAD.

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

- (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 24.5.2024, the applications were published for public inspection. During the statutory public inspection period, three public comments were received from individuals for each of the applications. Whilst two individuals indicate no comment on both applications, the remaining one raises objection to both applications mainly on the grounds that there are number of sites still available for Small House development; there is no previous approved application at the Sites; and Small House developments spreading outside the “V” zone should be prevented.

11. Planning Considerations and Assessment

- 11.1 The applications are for a proposed Small House on each of the Sites which fall within an area 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 applications from agricultural perspective as the Sites possess 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. There is no strong planning justification in the current submissions for a departure from the planning intention.
- 11.2 The Sites, located to the west of village cluster of Kan Tau Tsuen, is generally flat and left vacant. The proposed Small Houses are not incompatible with the surrounding areas, which are of rural landscape predominated by village houses, farmland, vegetated areas and tree clusters. As significant adverse impact on existing landscape resources within the Sites and the landscape character arising from the proposed developments is not anticipated, CTP/UD&L, PlanD has no objection to the applications 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 applications involve construction of one Small House at each of the Sites 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 adverse comment on the applications.
- 11.3 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint 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 40 while the 10-year Small House demand forecast is 130. Based on PlanD’s latest estimate, about 1.81 ha (equivalent to 72 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 development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 11.4 There are 29 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**), of which seven applications were approved by the Committee between June 2018 and August 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 applications are different from those approved applications as there is no previous approval covering the Site, there are vacant areas surrounding the Site and therefore may not be regarded as an infill site among existing NTEHs/Small Houses. Sympathetic consideration is not applicable to the subject applications.
- 11.5 Regarding the public comments on the applications as detailed in paragraph 10, 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 as detailed in paragraphs 10, the Planning Department does not support the applications for the following reasons:
- (a) 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 submissions 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 developments 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 applications, it is suggested that the permissions shall be valid until 5.7.2028, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The recommended advisory clauses for each of the permissions are attached at **Appendix VI**.

13. Decision Sought

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

- 13.3 Alternatively, should the Committee decide to approve the applications, Members are invited to consider the advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.

14. Attachments

Appendix Ia	Application Form of Application No. A/NE-LYT/829 received on 16.5.2024
Appendix Ib	Application Form of Application No. A/NE-LYT/830 received on 16.5.2024
Appendix II	Relevant Interim Criteria for Assessing Planning Application for NTEH/Small House Development in New Territories
Appendix III	Similar s.16 Applications for Proposed House (NTEH - Small House) within/partly within the same “AGR” zone in the vicinity of the Sites
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Layout Plan of Application No. A/NE-LYT/829
Drawing A-2	Proposed Small House Layout Plan of Application No. A/NE-LYT/830
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 A-4b	Site Photos

**PLANNING DEPARTMENT
JULY 2024**