

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/831

Applicant : Mr. PANG Huen Kwok represented by Glister Engineering Consultants Company

Site : Lot 1584 S.E in D.D. 76, Kan Tau Tsuen, Fanling, New Territories

Site Area : 167m² (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 House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who claims himself as indigenous villager of Kan Tau Tsuen of Fanling Heung¹, seeks planning permission to build a proposed NTEH (Small House) at the application site (the Site) 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 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

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

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

- 1.4 The Site is the subject of a previously approved application (No. A/NE-LYT/600) submitted by the same applicant for the same use, which was approved by the Rural and New Town Planning Committee (the Committee) on 14.9.2016. Details of the previous application are set out in paragraph 5.1 below.
- 1.5 In support of the application, the applicant has submitted the Application Form with attachments received on 24.5.2024 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**, as summarized below:

- (a) the application is made on urgent and bona fide need basis;
- (b) the Site falls within the village 'environs' ('VE') and the applicant is an indigenous villager who is entitled to Small House grant in accordance with the Small House Policy;
- (c) the proposed Small House is compatible with the surrounding areas;
- (d) there are some similar approved Small House applications in the vicinity of the Site; and
- (e) Lands Department (LandsD) is still processing the issuance of building license of the Site.

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

The applicant is the sole "current land owner" 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 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 the previously approved application (No. A/NE-LYT/600) submitted by the same applicant for the same use which was approved by the Committee on 14.9.2016 mainly on consideration that the proposed development was in close proximity to the existing village proper of Kan Tau Tsuen; and there were approved Small House applications at different stages of development nearby and adjoining the proposed development, and the implementation of which were forming a new village cluster in the locality. The validity of the planning permission has been extended to 14.9.2024 under Application No. A/NE-LYT/600-2. However, a fresh planning application is required as the planning permission cannot be further extended and more time is required by LandsD for processing the Small House grant application. Compared with the previous application, the major planning parameters and the footprint of the proposed Small House remain unchanged.

- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1 and A-2a**.

6. Similar Applications

- 6.1 There have been 43 similar applications for Small House development 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 the 40 approved applications, 21 of them were approved by the Rural and New Town Planning Committee (the Committee) between July 2002 and January 2015 before the Board's formal adoption of a more cautious approach since August 2015². 19 applications were approved by the Committee between December 2015 and October 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 three rejected applications, they were rejected by the Committee/the Board upon review from 2010 to 2017 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 '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 Site and Its Surrounding Areas (Plans A-1 to A-4b)

- 7.1 The Site is:
- (a) generally flat and hard-paved, and occasionally used for parking of vehicles;
 - (b) located to the south of the "V" zone of Kan Tau Tsuen and mostly located within the 'VE' of Kan Tau Tsuen; and
 - (c) accessible via a local track connecting to Sha Tau Kok Road – Ma Mei Ha.
- 7.2 The surrounding areas are in a rural landscape character dominated by village houses, vacant land and active/fallow agricultural land. To the north is the village proper of Kan Tau Tsuen. To the north, east and west 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

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.

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 summarized 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 House	- -	100% 100%	The Site and footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	96.7% 100%	3.3% -	DLO/N, LandsD advises that the majority of the Site falls 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 4.28 ha (equivalent to 171 Small House sites). The outstanding Small House applications for Kan Tau Tsuen are 41 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 41 outstanding Small House applications, 14 of them fall within the “V” zone and 27 straddle or outside the “V” zone. For those 27 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>
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 House is not incompatible with the surrounding areas dominated by village houses, farmlands, 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 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 involves development of one Small House at the Site 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 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 landscape planning perspective. Significant adverse impact on existing landscape resources within the Site and the landscape character arising from the proposed development 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 V**.

- (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 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 VII)

On 31.5.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals indicating no comment on the application.

11. Planning Considerations and Assessment

- 11.1 The application is for a proposed Small House on the Site which falls within an area 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. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
- 11.2 The Site, located to the south of Kan Tau Tsuen, is generally flat and hard-paved. The proposed Small House is 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 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 one Small House at the Site 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 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 41 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. Nevertheless, the Site is the subject of a previously approved application (No. A/NE-LYT/600) submitted by the same applicant for the same use. Compared with the

previous application, the major development parameters and footprint of the proposed Small House under the current application remain unchanged. Furthermore, the processing of the concerned Small House grant application is already at an advance stage as advised by DLO/N of LandsD and thus sympathetic consideration may be given to the application.

- 11.4 There are 43 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**), of which 19 applications were approved by the Committee between December 2015 and October 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 approvals submitted by the same applicants (such as Applications No. A/NE-LYT/638, 769 and 808) in the vicinity. Approval of the current application is generally in line with the Committee's previous decisions.

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 19.7.2028, 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 recommended advisory clauses are attached at **Appendix VI**.
- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- (a) 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; 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 and advisory clause(s), 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 applicant.

14. Attachments

Appendix I	Application Form with Attachments received on 24.5.2024
Appendix II	Relevant Interim Criteria for Assessing Planning Application for NTEH/Small House Development in New Territories
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2024**