

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/832

Applicant : Mr. LAU Chun Cheong represented by T.H. & Associates Limited

Site : Lot 690 S.A in D.D. 83, Kwan Tei, North District, New Territories

Site Area : 149m² (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 an indigenous villager of Kwan Tei of Fanling Heung¹, seeks planning permission to build a proposed NTEH (Small House) at the application site (the Site) in Kwan Tei, Fanling. The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan No. S/NE-LYT/19 (**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 a 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 is yet to be ascertained.

- 1.4 The Site is the subject of an approved previous application (No. A/NE-LYT/599) submitted by the same applicant for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 26.8.2016. Details of the previous application are set out in paragraph 5.1 below.
- 1.5 In support of the application, the applicant submitted the following documents:
- (a) Application Form with supplementary information (SI) received on 11.6.2024 **(Appendix I)**
 - (b) Further information (FI) received on 23.7.2024[^] **(Appendix Ia)**
 - (c) FI received on 26.7.2024[^] **(Appendix Ib)**
- [^] *accepted and exempted from the publication and the recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Applicant Form, SI and FIs at **Appendices I to Ib**. They can be summarized below:

- (a) the applicant claimed himself as an indigenous villager who is entitled to Small House grant in accordance with the Small House Policy;
- (b) the majority of the Site falls within the village ‘environs’ (‘VE’) of Kwan Tei Village;
- (c) the applicant has difficulty in purchasing land within the “Village Type Development” (‘V’) zone for construction of his Small House;
- (d) the proposed Small House is compatible with the surrounding environment and would not have adverse traffic, landscape and drainage impacts on the surroundings. Besides, the applicant has obtained consents for the right of way over the adjoining private lots from the concerned parties;
- (e) there are similar approved applications within the same “AGR” zone in the vicinity; and
- (f) the applicant has applied for Small House grant and the application is currently being processed by the Lands Department (LandsD).

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 an approved previous application (No. A/NE-LYT/599) submitted by the same applicant for the same use. The previous application was approved with conditions on 26.8.2016 mainly on the considerations that the proposed Small House was in close proximity to the existing village proper of Kwan Tei Village; there were approved Small House applications at different stages of development nearby and adjoining the proposed development, and the implementation of which was forming a new village cluster in the locality. The validity of the planning permission has been extended to 26.8.2024 under Application No. A/NE-LYT/599-1. 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 are 14 similar applications for Small House development(s) in the vicinity of the Site in the Kwan Tei Village since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Among the 14 approved applications, eight of them were approved by the Committee between November 2004 and May 2015 before the Board's formal adoption of a more cautious approach since August 2015². Six applications were approved by the Committee between February 2017 and November 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 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

- 7.1 The Site is:
- (a) currently vacant and covered with grass, and sandwiched between existing village houses to the west and east;
 - (b) located at the southern fringe of Kwan Tei Village and close to the existing village cluster; and
 - (c) without vehicular access.

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.

7.2 The surrounding areas have the following characteristics:

- (a) rural landscape character dominated by village houses, temporary domestic structures, vacant land and active/fallow agricultural land;
- (b) to the immediate south is a piece of vacant land and to its further south is the village proper of Fu Tei Pai zoned “V”; and
- (c) a number of approved applications for Small House developments are in the close vicinity of the Site (**Plan A-2a**), which are at different stages of implementation.

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:

	<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	65.4% 57.8%	34.6% 42.2%	DLO/N of LandsD advises that the Site and the footprint of the proposed Small House partially fall within the ‘VE’ of Kwan Tei of Fanling Heung.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	- Land required to meet Small House demand in Kwan Tei Village: about 3.83 ha (equivalent to 153 Small House sites). The outstanding Small House applications for Kwan Tei Village are 43 ³ while the 10-year Small House demand forecast for the same village is 110.

³ Among the 43 outstanding Small House applications, 26 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, nine 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 applications?	✓		- Land available to meet the Small House demand within the “V” zone of Kwan Tei Village: about 2.52 ha (equivalent to 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 application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructure such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouse and plant nurseries, etc.
5.	Compatible with surrounding areas/ development?	✓		The proposed Small House is not incompatible with the surrounding rural landscape character dominated by village houses, temporary domestic structures and active/fallow agricultural land (Plans A-2a and A-3).
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 application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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.
10.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN of 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 of PlanD) has no objection to the application from landscape planning perspective. Significant adverse impact on existing landscape resources within the Site arising from the proposed development is not anticipated.
13.	Local objections conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N) of 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 Kwan Tei and Fu Tei Pai.

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 of LandsD;
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L of PlanD;
- (e) CE/MN of DSD;
- (f) DAFC;
- (g) D of FS; and
- (h) DO(N) of 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 of WSD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE of HyD); and
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department.

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

On 18.6.2024, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee raise objection to the application on the ground that the applicant has not obtained consent for the right of way over the adjoining private lands. The Chairman of Lung Shan Area Committee and an individual indicated no comment on the application.

11. Planning Considerations and Assessment

11.1 The application is for a proposed Small House at 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 Kwan Tei Village, is currently vacant and covered with grass. The proposed Small House is not incompatible with the surrounding areas, which are of rural inland plains landscape character comprising farmlands, village houses, cluster of tree groups and vegetated areas. CTP/UD&L of PlanD considers that significant adverse impact on existing landscape resources arising from the proposed development is not anticipated, and she 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 Kwan Tei Village (**Plan A-2a**). DLO/N of LandsD advises that the number of outstanding Small House applications of Kwan Tei Village is 43 while the 10-year Small House demand forecast is 110. Based on PlanD's latest estimate, about 2.52 ha (equivalent to 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 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. Nevertheless, the Site, sandwiched between existing village houses to its east and west, is the subject of an approved previous application (No. A/NE-LYT/599) submitted by the same applicant for the same use. That application was approved with conditions in August 2016 after the Board's formal adoption of the said more cautious approach in August 2015. Compared with the previous application, the major development parameters and footprint of the proposed Small House under the current application remain unchanged. Furthermore, DLO/N of LandsD advises that the applicant has applied for the Small House grant and the application is currently being processed. In view of the above, sympathetic consideration may be given to the application.
- 11.4 There are 14 similar applications for Small House development(s) in the vicinity of the Site (**Plan A-2a**), six of which were approved by the Committee between 2017 and 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 applicant(s) (such as Applications No. A/NE-LYT/721, 732 and 809) in the vicinity. Approval of the current application is generally in line with the Committee's previous decisions.
- 11.5 Regarding the public comments in paragraph 10, government departments' comments and planning assessments above are relevant. Regarding the public comments on the right of way over the adjoining private lots, the applicant advised that consents have already been obtained from relevant parties.

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 2.8.2028, 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 reasons for rejection are 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 Kwan Tei Village 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 applicant.

14. Attachments

Appendix I	Application Form with SI received on 11.6.2024
Appendix Ia	FI received on 23.7.2024
Appendix Ib	FI received on 26.7.2024
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 Kwan
	Tei Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
AUGUST 2024