

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

**APPLICATION NO. A/NE-LYT/840**

<b><u>Applicant</u></b>	:	Mr. PANG Leon Wai Yin represented by Glister Engineering Consultants Company
<b><u>Site</u></b>	:	Lot 1574 S.D ss.1 in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
<b><u>Site Area</u></b>	:	About 145m <sup>2</sup>
<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 as an indigenous villager of Fanling Wai<sup>1</sup>, seeks planning permission to build a NTEH (Small House) at the application site (the Site) in Kan Tau Tsuen, Fanling, falling within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use within “AGR” zone, which requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed Small House are as follows:

Total Floor Area	:	195.09m <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03m <sup>2</sup>

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

- 1.3 The applicant indicates that the uncovered area of the Site will be used as circulation area. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted an Application Form with attachment received on 19.12.2024 (**Appendix I**).

## **2. Justifications from the Applicant**

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

- (a) the application is made on urgent and bona fide need basis;
- (b) the applicant, who is an indigenous villager and the sole land owner of the Site, is entitled to apply for Small House grant in accordance with the current Small House Policy;
- (c) the Site falls entirely within the village ‘environs’ (‘VE’) of Kan Tau Tsuen, and the proposed Small House is compatible with the surrounding areas; and
- (d) there are some similar approved Small House applications in the vicinity 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 of 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 Site.

## **6. Similar Applications**

- 6.1 There were 34 similar applications involving 30 sites for proposed House(s) (NTEH(s) – Small House(s)) within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Among the 31 approved applications, 19 (applications No. A/NE-LYT/237, 239 to 242, 253, 276, 293, 330, 331, 355, 356, 367, 436, 494, 512 to 515) were approved with conditions by the Rural and New Town Planning Committee (the

Committee) between 2002 and 2013, prior to the formal adoption of a more cautious approach in considering Small House application by the Board in August 2015<sup>2</sup>. They were approved mainly on the considerations that the applications generally complied with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell within the 'VE' and there was a general shortage of land within "V" zone in meeting the Small House demand at the time of consideration; the proposed Small House developments were not incompatible with the surrounding rural landscape character; and they would unlikely generate significant adverse impacts on the surrounding areas.

- 6.3 Since then, 12 applications (No. A/NE-LYT/583, 592, 600, 630, 638, 644, 715, 716, 727, 769, 808 and 831) were approved by the Committee between 2015 and 2024, mainly on sympathetic considerations 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.
- 6.4 For the remaining three applications (No. A/NE-LYT/417, 440 and 642), they were all 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 there was no shortage of land in meeting the demand for Small House development in the "V" zone.
- 6.5 Details of the similar applications are summarised 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) hard-paved and partly used for parking of vehicles and partly occupied by an abandoned structure with miscellaneous items;
- (b) located at the southern fringe of Kan Tau Tsuen and generally sandwiched between existing village houses with approved planning applications to the east and west. A vacant structure<sup>3</sup> is situated to the immediate southwest ; and
- (c) abutting a local access/footpath to the immediate north and west connecting to Sha Tau Kok Road – Ma Mei Ha.

### **7.2 The surrounding areas are of rural character predominated by village houses/domestic structures, active farmland, unused land and clusters of tree groups. To the south of the Site across a footpath are the sites of a number of approved applications for Small House developments and to the further south is a section of Tan Shan River.**

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<sup>2</sup> Amongst 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.

<sup>3</sup> According to record, the concerned vacant structure is not a NTEH/Small House.

## 8. Planning Intention

The planning intention of the “AGR” zone is 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?  - Footprint of the proposed Small House  - The Site	-  -	100%  100%	The Site and footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	100%  100%	-  -	DLO/N, LandsD advises that the Site and the footprint of the proposed Small House fall entirely 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)?  Sufficient land in “V” zone to meet outstanding Small House applications?	  ✓	✓	<u>Land Required</u> - Land required to meet Small House demand in Kan Tau Tsuen: about 4.08ha (equivalent to 163 Small House sites). The outstanding Small House applications is 33 <sup>4</sup> while the 10-year Small House demand is 130.  <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kau Tau Tsuen: about 1.71ha (equivalent to about 68 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation.

<sup>4</sup> Among the 33 outstanding Small House applications, 14 fall within the “V” zone, and 19 straddle or fall outside the “V” zone. For those 19 applications straddling or falling outside the “V” zone, 11 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				The 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.
5.	Compatible with surrounding area/development?	✓		The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L, PlanD) considers that the proposed Small House development is not incompatible with the surrounding areas mainly comprising farmlands, village houses, river, clusters of tree groups and vegetated areas.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Environmental and sewerage impact?		✓	The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The 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.
10.	Traffic impact?	✓		The Commissioner for Transport (C for T) advises that Small House developments should be confined within the "V" zone as far as possible. Though 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 the future. The resulting cumulative adverse traffic impact could be substantial.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Notwithstanding the above, the application only involves the development of one Small House and could be tolerated.
11.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.
12.	Landscaping impact?		✓	CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. The Site is hard paved with no sensitive landscape resources. Significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the proposed development is not anticipated.
13.	Local objections conveyed by DO?		✓	

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) DAFC;
- (c) C for T;
- (d) DEP;
- (e) CE/MN, DSD;
- (f) D of FS;
- (g) CE/C, WSD; and
- (h) CTP/UD&L, PlanD.

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

- (a) District Officer (North), Home Affairs Department (DO(N) of HAD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

## **10. Public Comments Received During Statutory Publication Period**

On 27.12.2024, the application was published for public inspection. During the statutory public inspection period, six public comments were received (**Appendix VI**).

Three comments from the Chairman and the 1<sup>st</sup> Vice-chairman of Fanling District Rural Committee as well as an individual object to the application mainly on the grounds that the applicant is not an indigenous villager of Kan Tau Tsuen; the proposed Small House development would result in adverse traffic impact on the surrounding areas; and/or a proper drainage proposal is not provided for the development. One comment from individual objects to the application mainly on the grounds that there is no previous application at the Site; there is no proper sewerage system on-site; approval of the application might result in a further encroachment of village type development onto the “AGR” zone; and there are still available land for Small House development within the “V” zone of Kan Tau Tsuen. One comment from an individual indicates that the applicant is not an indigenous villager of Kan Tau Tsuen. The remaining one comment from a member of North District Council indicates no comment on the application.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed Small House development at the Site zoned “AGR” on the OZP (**Plan A-2a**). 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. DAFC does not support the application from the agricultural development perspective as the Site possesses potential for agricultural rehabilitation. There are active agricultural activities in the vicinity, and agricultural infrastructures such as road access and water source are also available. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 The Site, which is located at the southern fringe of Kan Tau Tsuen and generally sandwiched between existing village houses with approved planning applications to the east and west (**Plan A-2a**), is hard-paved and partly used for parking of vehicles and partly occupied by an abandoned structure with miscellaneous items (**Plans A-4a and A-4b**). The proposed development is not incompatible with the surrounding areas which mainly comprise village houses/domestic structures, active farmland, unused land and clusters of tree groups. CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed Small House development is not anticipated. C for T considers that while Small House developments should be confined within the “V” zone as far as possible, the application could be tolerated from traffic impact perspective given that it involves one Small House only. Other relevant government departments consulted, including DEP, CE/MN, DSD, D of FS and CE/C, WSD have no objection to or no adverse comment on the application.
- 11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Kan Tau Tsuen (**Plan A-2a**). According to DLO/N, LandsD, the number of outstanding Small House applications for Kan Tau Tsuen is 33 while the 10-year Small House demand forecast is 130. Based on PlanD’s latest estimate, about 1.71ha (equivalent to about 68 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 11.4 There are 34 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**), 12 of which were approved by the Committee between 2015 and 2024 after the Board’s formal adoption 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 different from those of the approved applications as there is no previously approved application covering the Site, and the Site is not an infill site encircled by existing NTEHs/Small Houses from all sides.
- 11.5 Regarding the public comments objecting to the application or expressing concern about the applicant’s eligibility for Small House grant in the concerned village as detailed in paragraph 10 above, 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 mentioned in paragraph 10, 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 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 a 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 14.2.2029, 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 at **Appendix V**.



### **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 19.12.2024
<b>Appendix II</b>	Relevant Extracts of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available for Small House Development within the "V" zone of Kan Tau Tsuen
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
FEBURARY 2025**