

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/844

<u>Applicant</u>	:	Mr. TANG Chi Fai represented by Mr. HUI Kwan Yee
<u>Site</u>	:	Lot 639 S.C in D.D. 83, Kwan Tei Village, Fanling, New Territories
<u>Site Area</u>	:	132m ²
<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>Zonings</u>	:	(i) “Village Type Development” (“V”) (about 79% of the Site) (ii) “Agriculture” (“AGR”) (about 21% of the Site)
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself as an indigenous villager¹, seeks planning permission to build a NTEH (Small House) at the application site (the Site) in Kwan Tei, Fanling falling within an area mainly zoned “V” (about 79%) and partly zoned “AGR” (about 21%) on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted within the “V” zone, whilst ‘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 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	:	8.23 m
Roofed Over Area	:	65.03m ²

¹ The applicant claimed himself as an indigenous villager of Kat O, Sha Tau Kok Heung and settled in Kwan Tei, Fanling Heung in 1979 (**Appendix Ia**). As advised by the District Lands Officer/North, Lands Department (DLO/N, LandsD), his eligibility for Small House grant is yet to be ascertained.

- 1.3 The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.
- 1.4 The Site is the subject of a previous application (No. A/NE-LYT/603) 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 3.2.2017. 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 following documents:
 - (a) Application Form with attachments received on 20.1.2025 (**Appendix I**)
 - (b) Further Information (FI) received on 6.3.2025[^] (**Appendix Ia**)
[^] accepted and exempted from the publication and recounting requirements

2. Justifications from the Applicant

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

- (a) the ancestors of the applicant have been moved from Kat O Village of Sha Tau Kok Heung to Kwan Tei since 1979;
- (b) the Site is the subject of a previously approved application (No. A/NE-LYT/603) for Small House development submitted by the applicant. The validity of the planning permission has been extended to February 2025. Since the planning permission cannot be further extended, a fresh planning application is required; and
- (c) the applicant has submitted a Small House grant application and the application is currently being processed by 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 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

- 5.1 The Site is the subject of a previous application (No. A/NE-LYT/603) submitted by the same applicant for the same use. The previous application was approved with conditions by the Committee on 3.2.2017 mainly on the favourable considerations that more than 50% of the proposed Small House footprints fell

within the “V” zone; the proposed Small House was in close proximity to the existing village proper of Kwan Tei; and there were approved Small House applications at different stages of development nearby. The validity of the planning permission has been extended to 3.2.2025 under Application No. A/NE-LYT/603-2. 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, except for a change in the location of septic tank, the major planning parameters and footprint of the proposed Small House are generally the same.

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

6. Similar Applications

- 6.1 There were 19 similar applications involving 13 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 17 approved applications, six of them (applications No. A/NE-LYT/390, 499, 510, 517, 527 and 533) were approved with conditions by the Committee between March 2009 and December 2014, prior to the formal adoption of a more cautious approach in considering Small House application by the Board in August 2015².
- 6.3 Since then, 11 applications (No. A/NE-LYT/587, 588, 599, 632, 682, 721, 722, 790, 791, 809 and 832) were approved by the Committee, with or without conditions, between February 2016 and August 2024, mainly on sympathetic consideration that the application site was 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 two applications (No. A/NE-LYT/399 and 340), they were both rejected by the Committee in 2009 mainly on the ground of being not complying with the Interim Criteria in that the application site fell entirely outside the ‘VE’ and “V” zone of Kwan Tei.
- 6.5 Details of the similar applications are summarised 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 under active cultivation; and
 - (b) located at the eastern fringe of the village proper of Kwan Tei and partly falls within the “V” zone and ‘VE’ of Kwan Tei; and

² 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.

(c) without vehicular access.

7.2 The surrounding areas are of rural character predominated by village houses/domestic structures, active/fallow farmland and tree groups or vegetated areas. To the immediate north and south are the sites with Small House grant applications approved or being processing by DLO/N, LandsD. To the east are mainly active/fallow farmland within the “AGR” zone. To the further north is the former Kwan Tei Public School within the “Government, Institution or Community” zone.

8. **Planning Intentions**

8.1 The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

8.2 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	86%	14%	- More than 50% of the footprint of the proposed Small House and the Site fall within the “V” zone.
	- The Site	79%	21%	
2.	Within ‘VE’?			
	- Footprint of the proposed Small House	15%	85%	DLO/N, LandsD advises that the Site falls partly within the ‘VE’ of Kwan Tei.
	- The Site	34%	66%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 Kwan Tei: about 3.73ha (equivalent to 149 Small House sites). The outstanding Small House applications for Kwan Tei is 39 ³ while the 10-year Small House demand is 110.
	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 Kwan Tei: about 2.48ha (equivalent to about 99 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural perspective as the Site possesses potential for agricultural rehabilitation. 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 proposed Small House development is not incompatible with the surrounding areas mainly comprising farmlands, village houses, vegetated areas and tree groups.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
8.	Encroachment onto planned road networks and public works boundaries?		✓	

³ Among the 39 outstanding Small House applications, 24 fall within the “V” zone, and 15 straddle or fall outside the “V” zone. For those 15 applications straddling or falling outside the “V” zone, 6 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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. 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?		✓	The Chief Town Planner/Urban Design & Landscape of Planning Department (CTP/UD&L, PlanD) has no adverse comment on the application from landscape planning perspective. The Site is occupied by farmland without existing trees. Significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the proposed development is not anticipated.
14.	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) CE/MN, DSD;
- (e) D of FS;
- (f) CE/C, WSD; and
- (g) 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), HAD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (a) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comment Received During Statutory Publication Period

On 28.1.2025, the application was published for public inspection. During the statutory public inspection period, one public comment from a member of North District Council indicating no comment on the application was received (**Appendix VII**).

11. Planning Considerations and Assessments

11.1 The application is for proposed Small House development at the Site mainly zoned “V” (about 79%) and partly zoned “AGR” (about 21%) on the OZP (**Plan A-2a**). Whilst the proposed development is always permitted within “V” zone, it 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 the Site possesses potential for agricultural rehabilitation.

11.2 The Site, which is currently under active cultivation, is located at the eastern fringe of the village proper of Kwan Tei and in the close proximity to the Small House developments with planning approvals and Small House grant applications approved or being processed by DLO/N, LandsD (**Plans A-2a and A-4**). The proposed Small House development is not incompatible with the surrounding areas which mainly comprise village houses/domestic structures, active/fallow farmland and vegetated areas or 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 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**), more than 50% of the footprint of the proposed Small House falls within the “V” zone of Kwan Tei (**Plan A-2a**). According to DLO/N, LandsD, the number of outstanding Small House applications for Kwan Tei is 39 while the 10-year Small House demand forecast is 110. Based on PlanD’s latest estimate, about 2.48ha (equivalent to about 99 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 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 is the subject of a previous application (No. A/NE-LYT/603) submitted by the same applicant for the same use, which was approved by the Committee with conditions after the Board’s formal adoption of the said more cautious approach. Compared with the previous application, the major development parameters and footprint of the proposed Small House under the current application are generally the same. Besides, DLO/N, LandsD advised the Small House grant application submitted by the applicant is currently being processing. In view of the above, sympathetic consideration can be given to the application.
- 11.4 There are 19 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**), 11 of which were approved by the Committee between 2016 and 2024 after the Board’s formal adoption of a more cautious approach mainly on the sympathetic consideration as detailed in paragraph 6.3 above. The planning circumstances of the current application are largely similar to those of the approved applications. Approval of the current application is 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 comment mentioned in paragraph 10 above, PlanD 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 14.3.2029, 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 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 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 Attachments received on 20.1.2025
Appendix Ia	FI received on 6.3.2025
Appendix II	Relevant Extracts of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Government Departments’ General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comment
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” zone of Kwan Tei
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2025**