

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

**APPLICATION NO. A/NE-LYT/727**

- Applicant** : Mr. PANG Suen Ping represented by Glister Engineering Consultants Company
- Site** : Lot 1584 S.G in D.D. 76, Kan Tau Tsuen, Lung Yeuk Tau, New Territories
- Site Area** : 144 m<sup>2</sup> (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/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who claimed himself an indigenous villager of Fanling Village of Fanling Heung<sup>1</sup>, seeks planning permission to build a proposed NTEH (Small House) on the application site (the Site) at Kan Tau Tsuen, Fanling (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. 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)’ in “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH (Small House) are as follows:

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

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

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

- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which were received on 25.5.2020.
- 1.5 In light of the special work arrangement for Government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.7.2020 for consideration of the application has been rescheduled, the Town Planning Board has agreed to defer consideration of the application and the application is now scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

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

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) there is an imminent need for submitting the Small House application;
- (b) the applicant is the registered owner of the Site;
- (c) the applicant is an indigenous villager and therefore is entitled to have a Small House grant in accordance with the current Small House Policy;
- (d) the Site falls within the Village 'Environs' ('VE');
- (e) the proposed development is compatible with the surrounding environment and land use;  
and
- (f) there are similar approved applications in the vicinity of the Site.

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

The applicant is the "current land owner" of the respective lot. 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**

- 5.1 There is no previous application for the Site.

## 6. Similar Applications

- 6.1 There are 104 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Of 92 approved applications, 54 applications were approved with conditions by the Committee between March 2001 and January 2015 (i.e. before a more cautious approach is adopted by the Board) (**Plan A-1**) mainly on the considerations that the applications generally complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand; the proposed developments were not expected to have significant adverse traffic, drainage, environmental or landscape impacts on the surrounding area. The remaining 38 applications were approved between December 2015 and November 2019 (i.e. after a more cautious approach is adopted by the Board) (**Plan A-1**) mainly for reasons of being the subject of previously approved applications; the processing of Small House grants was already at an advance stage; the implementation of new Small House under construction and approved Small House development nearby was forming a new village cluster in the locality.
- 6.3 The other 12 applications were rejected by the Committee or the Board on review between September 2003 and June 2020 mainly on the considerations that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village; the proposed developments were not in line with the planning intention of the “AGR” zone; land was still available within the “V” zone; and approval of the applications would set an undesirable precedent for similar applications.
- 6.4 Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## 7. The Site and Its Surrounding Area (Plans A-1, A-2a and aerial photo on Plan A-3 and site photos on Plan A-4)

- 7.1 The Site is:
- (a) flat, vacant and mainly overgrown with shrubs and grass (**Plan A-3**);
  - (b) located to the south of “V” zone of Kan Tau Tsuen; and
  - (c) accessible via local footpath .
- 7.2 The surrounding areas have the following characteristics:
- (a) rural landscape character dominated by village houses, vacant land and fallow agricultural land;
  - (b) to the immediate north is the site of planning application (No. A/NE-LYT/716) for Small House development which was approved by the Committee on 29.11.2019, and to the further north is the “V” zone of Kan Tau Tsuen where village houses could be found (**Plan A-2a**);

- (c) to the west and east are the sites of a number of planning applications for Small House developments which were approved by the Committee between 2002 and 2019;
- (d) to the immediate south is the site of planning application (No. A/NE-LYT/592) for Small House development which was approved by the Committee on 10.6.2016, and to the further south are fallow farmland intermixed with a few temporary structures.

## 8. Planning Intention

8.1 The planning intention of the “AGR” zone 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 in **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 the footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’?  - The Site - Footprint of the proposed Small House	100% 100%		- DLO/N, LandsD advises that the Site and footprint of the proposed Small House fall within the ‘VE’ of Kan Tau Tsuen.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Kan Tau Tsuen: about 3.4 ha (equivalent to 134 Small House sites). The outstanding Small House applications for Kan Tau Tsuen are 56 <sup>2</sup> while the 10-year Small House demand forecast for the same village is 78.

<sup>2</sup> Among the 56 outstanding Small House applications, 11 of them fall within the “V” zone and 45 straddle or outside the “V” zone. For those 45 applications straddling or outside the “V” zone, 31 of them have obtained valid planning approval 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 application?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kan Tau Tsuen: about 1.94 ha (equivalent to 77 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) states that the Site is currently an abandoned land. 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. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
5.	Compatible with surrounding area/ development?	✓		- The proposed Small House is not incompatible with the surrounding rural setting and environment dominated by fallow agricultural land and village houses ( <b>Plan A-2a</b> ).
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)?		✓	- 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.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has reservation on the application and advises that Small House development should be confined within the “V” zone as far as possible. Although additional

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</p> <p>- Notwithstanding the above, the application involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.</p>
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	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.
12.	Landscaping impact?		✓	<p>- The Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the application from the landscape planning point of view.</p> <p>- The Site is located within rural landscape character area comprising mainly village houses and vegetated areas. The Site is surrounded by existing houses, the proposed use is not entirely incompatible with the surrounding landscape character. The Site is an abandoned agricultural land with vegetation of common species, significant</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>landscape impact within the Site arising from the development is not anticipated.</p> <p>- There is no major public frontage along the site boundaries and the Site has inadequate space. Should the Board approve the application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.</p>
13.	Local objections conveyed by DO?	✓		<p>- District Officer (North) (DO(N)) advises that the Chairman of Fanling District Rural Committee, and one of the Indigenous Inhabitant Representatives (IIRs) of Kan Tau Tsuen have no comment on the application. The incumbent North District Council Member of the subject constituency objects to the application on the grounds that without improvement to local footpath, access, drainage and sewerage facilities, approval of the application will affect the quality of life of the villagers.</p>

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Detailed comments from Government departments are at **Appendix IV**.

- (a) District Lands Officer/North, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (h) Director of Agriculture, Fisheries and Conservation; and
- (i) District Officer (North), Home Affairs Department.

9.3 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

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

On 2.6.2020, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix V**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. One individual expresses concern on whether the proposed development is in line with the Small House Policy. The remaining comment from Designing Hong Kong Limited objects to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; land is still available within the “V” zone of Kan Tau Tsuen; and approval of the application would set an undesirable precedent for similar applications within the “AGR” zone.

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

- 11.1 The application is for a proposed Small House at the Site zoned “AGR” on the OZP. 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. As the Site possesses potential for agricultural rehabilitation, DAFC does not support the application from agricultural point of view.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kan Tau Tsuen is 56 while the 10-year Small House demand forecast for the same village is 78. According to the latest estimate by PlanD, about 1.94 ha (equivalent to 77 Small House sites) of land are available in the “V” zone of Kan Tau Tsuen for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Site falls within the ‘VE’ of Kan Tau Tsuen.
- 11.3 The Site is flat, vacant and covered with shrub and grass (**Plans A-3 and A-4**). It is located to the immediate south of the “V” zone of Kan Tau Tsuen (**Plan A-1**). The proposed Small House is not entirely incompatible with the surrounding landscape character as the Site is surrounded by existing houses. Significant landscape impact within the Site arising from the development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective. C for T has reservation on the application and considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed development involves one Small House, the application could be tolerated. Other relevant Government departments, including DEP, CE/MN of DSD and D of FS, have no adverse comment or no objection to the application.
- 11.4 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**). Whilst land available within the “V” zone is insufficient to fully meet the future Small House demand of 134 Small Houses, such available land (about 1.94 ha or equivalent to 77 Small House sites) is capable to meet the 56 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst 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 infrastructure and services. Nevertheless, it is noted that the Site is in close



proximity to the existing village proper of Kan Tau Tsuen. There are also existing village houses to the west of the Site and approved Small House applications to the north, east and south at different stages of development. The implementation of those approved Small Houses is forming a new village cluster in the locality. In this regard, sympathetic consideration might be given to the application (**Plan A-2**).

- 11.5 There are 41 similar applications for Small House development in close proximity to the Site (**Plan A-2a**). Of them, twenty-one applications were approved by the Committee between 2002 to 2015 (i.e. before a more cautious approach is adopted by the Board) mainly on the grounds of compliance with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone. Ten other applications (No. A/NE-LYT/604-605, 609-612, 614-616 and 638) were approved by the Committee in 2017 (i.e. after a more cautious approach is adopted by the Board) mainly on sympathetic consideration that those are the subject of previously approved applications. Seven other applications (No. A/NE-LYT/583, 592, 600, 630, 644, 715 to 716) were approved by the Committee between 2015 and 2019 (i.e. after a more cautious approach is adopted by the Board) mainly on the ground that the implementation of those approved Small Houses are forming a new village cluster in the locality. The remaining 3 similar applications (No. A/NE-LYT/417, 440 and 642) to the south of the Site were rejected by the Committee or the Board on review between 2010 to 2017 mainly on the ground that the proposed Small House developments did not comply with the Interim Criteria as the proposed Small House footprints fell mainly/entirely outside the “V” zone and the ‘VE’ of a recognized village. The circumstances of the current application is more similar to those approved similar applications (No. A/NE-LYT/583, 592, 600, 630, 644 and 715 to 716) in close proximity to the Site approved after a more cautious approach is adopted by the Board.
- 11.6 Regarding the local objection conveyed by DO(N) of HAD and adverse public comments objecting to the application as detailed in paragraphs 9.1 and 10 above respectively, 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 local objection conveyed by DO(N) of HAD and the public comments mentioned in paragraphs 9.1 and 10 above, the Planning Department has no objection the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 1.9.2024, 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 following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and

- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

#### Advisory Clauses

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 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 the 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**

<b>Appendix I</b>	Application Form with attachments received on 25.5.2020
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the "AGR" Zone in the vicinity of the Sites in the Lung Yeuk Tau and Kwan Tei South area
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<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 within the “V” zone of Kan Tau Tsuen for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2020**