

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/717

- Applicant** : Mr. TANG Tze Hin represented by Glister Engineering Consultants Company
- Site** : Lot 1569 S.B ss. 1 in D.D. 83, Wing Ning Tsuen, Fanling, New Territories
- Site Area** : 154 m² (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 to be an indigenous villager¹, seeks planning permission to build a proposed NTEH (Small House) on the application site (the Site) in Wing Ning 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 | : | 185.1 m ² |
| Number of Storeys | : | 3 |
| Building Height | : | 8.23 m |
| Roofed Over Area | : | 61.7 m ² |
- 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.
- 1.4 The Site is part of the subject of two previous planning applications (No.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant is an indigenous villager of Lung Yeuk Tau (Wing Ning Tsuen) of Fanling Heung. His eligibility for Small House grant has yet to be ascertained.

A/DPA/NE-LYT/43 and 68) for Small House developments submitted by different applicant. Application No. A/DPA/NE-LYT/43 was rejected by the Rural and New Town Planning Committee (the Committee) on 19.3.1993 while the application No. A/DPA/NE-LYT/68 was approved with conditions by the Committee on 15.10.1993. The Small House development is complete with southern portion of the Site used for garden (**Plans A-2a and A-4a**). The Mother Lot (i.e. Lot 1569 S.B in D.D 83) was subsequently subdivided into two portions (i.e. Lots 1569 S.B ss.1 and 1569 S.B RP). The Site under the current application covers largely the garden area (**Plan A-2a**).

1.5 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which were received on 11.10.2019.

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 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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Applications

5.1 The Site is involved in part of the two previous planning applications (No. A/DPA/NE-LYT/43 and 68) for the same use and submitted by the same applicant under the two previous applications.

- 5.2 Application No. A/DPA/NE-LYT/43 covering a larger area was rejected by the Committee on 19.3.1993 mainly on the grounds of not in line with the planning intention for the area which was to allow for development proposals that would have insignificant adverse impacts on the environment; the proposed built-over areas was excessive; and there was no submission to demonstrate no adverse sewerage, drainage and landscape impacts on the surrounding area.
- 5.3 Application No. A/DPA/NE-LYT/68 covering a smaller area as compared with the previous application (No. A/DPA/NE-LYT/43) was approved with conditions by the Committee on 15.10.1993. The application was approved mainly on the ground that the proposed development was not expected to have significant adverse traffic, drainage, environmental or landscape impacts on the surrounding area. The Small House development is complete with southern portion of the Site used for garden (**Plans A-2a and A-4**). The Mother Lot was subsequently subdivided into two portions (i.e. Lots 1569 S.B ss.1 and 1569 S.B RP). The Site under the current application covers largely the garden area (**Plan A-2a**).
- 5.4 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 36 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. Of them, 32 applications were approved and 4 were rejected.
- 6.2 For the 32 approved applications, they were approved by the Committee between November 2001 and December 2014 (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” zones of Lung Yuek Tau village cluster² in meeting the Small House demand; and the proposed developments were not expected to have significant adverse traffic, drainage, environmental or landscape impacts on the surrounding area.
- 6.3 The remaining 4 applications (No. A/NE-LYT/305, 358, 398 and 405) were rejected by the Committee or the Board on review between May 2005 and December 2009 (i.e. before a more cautious approach is adopted by the Board) 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 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 undesirable precedents for similar applications.
- 6.4 Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

² Comprising Tsz Tong Tsuen, Ma Wat Wai, Siu Hang San Tsuen, San Uk Tsuen, San Wai, Wing Ning Tsuen, Wing Ning Wai, Ma Wat Tsuen, Tung Kok Wai and Lo Wai.

7. The Site and Its Surrounding Areas (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 and vacant land with wild grass (**Plan A-3**);
- (b) sandwiched between two village houses, which were approved in 1993;
- (c) located in close proximity to the village cluster of Wing Ning Tsuen; and
- (d) accessible via a footpath connecting to Siu Wan Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is the village house already developed under the previous planning application No. A/DPA/NE-LYT/68 for Small House development approved by the Committee in 1993 (**Plan A-2a**);
- (b) to the immediate west is the Small House development (No. A/DPA/NE-LYT/67) approved in 1993 (**Plan A-2a**), and to its further west and northwest are mainly Small House developments approved between 2005 and 2010 (**Plan A-2a**);
- (c) to the east is existing temporary structure for domestic use and further east and southeast are private vehicle parks approved by the Committee in 2019; and
- (d) to the south is existing temporary structure for domestic use and further south are village houses in the “V” zone of Lung Yuek Tau village cluster.

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 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> - The Site - Footprint of the proposed Small House 	<p>22.5%</p> <p>50.84%</p>	<p>77.5%</p> <p>49.16%</p>	<p>- DLO/N, LandsD advises that over 50% of the footprint of the proposed Small House falls within the 'VE' of Lung Yeuk Tau village cluster.</p>
3.	<p>Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <p>- Land required to meet the Small House demand in Lung Yeuk Tau village cluster: about 27.48 ha (equivalent to 1,099 Small House sites). The outstanding Small House applications for Lung Yeuk Tau village cluster are 174³ while the 10-year Small House demand forecast for the same village is 925.</p>
	<p>Sufficient land in "V" zone to meet outstanding Small House application?</p>	✓		<p><u>Land Available</u></p> <p>- Land available to meet the Small House demand within the "V" zones of Lung Yeuk Tau village cluster: about 19.88 ha (equivalent to 795 Small House sites) (Plans A-2b and 2c).</p>
4.	<p>Compatible with the planning intention of "AGR" zone?</p>		✓	<p>- The Director of Agriculture, Fisheries and Conservation (DAFC) states that 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, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view.</p>
5.	<p>Compatible with surrounding area/development?</p>	✓		<p>- The proposed Small House is not incompatible with the surrounding rural setting and environment</p>

³ Among outstanding Small House applications, 150 of them fall within the "V" zone and 24 straddle or outside the "V" zone. For those 24 applications straddling or being outside the "V" zone, no valid planning approval has been obtained from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				dominated by temporary structures, car parks and village houses (Plan A-2a).
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 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 undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - 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.
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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&L, PlanD) has no objection to the application from the landscape planning point of view.</p> <p>- The Site is situated in an area of rural landscape character surrounded by village houses and car parks. No significant landscape resource of high sensibility is observed within the Site. Significant adverse impact on existing landscape resources arising from the application is not anticipated.</p> <p>- In consideration of the limited space within the Site, there is insufficient space for meaningful landscaping. 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?		✓	- District Officer (North) (DO(N)) advises that he has consulted the locals. The Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau supports the application. The Chairman of Fanling District Rural Committee, the Resident Representative (RR) of Lung Yeuk Tau, the IIR of Lung Yeuk Tau cum District Council member of subject constituency and the remaining IIR of Lung Yeuk Tau have no comment on the application.

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

- (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 18.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendix VI**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. One public comment from the District Council Member supports the application. The remaining one comment from an individual objects to the application mainly on the considerations that land is still available within the “V” zone to meet outstanding Small House applications and it is more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern.

11. Planning Considerations and Assessments

11.1 The application is for Small House development on Site zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is intended 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 the agriculture point of view.

11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Lung Yeuk Tau village cluster is 174 while the 10-year Small House demand forecast for the same village is 925. According to the latest estimate by PlanD, about 19.88 ha (equivalent to 795 Small House sites) of land are available in the “V” zones of Lung Yeuk Tau village cluster for Small House development (**Plans A-2b and A-2c**). DLO/N, LandsD noted that over 50% of the footprint of the proposed Small House falls within the ‘VE’ of Lung Yuek Tau village cluster.

- 11.3 The Site is located to the immediate north of the “V” zone of Lung Yeuk Tau village cluster. The proposed Small House is not incompatible with the surrounding rural setting comprising village houses and car parks. Significant adverse impact on existing landscape resources arising from the application 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, over 50% of the footprint of the proposed Small House falls within the ‘VE’ of Lung Yeuk Tau village cluster. While land available within the “V” zone is insufficient to fully meet the future Small House demand of 1,099 Small Houses, such available land (about 19.88 ha or equivalent to 795 Small House sites) is capable to meet the 174 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 developments 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 houses and temporary structure for domestic use to the north, west, east and south of the Site, and approved Small House applications are found further to the 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.
- 11.5 The Site is the subject of a previous planning application (No. A/DPA/NE-LYT/68) covering a larger area for Small House development. The proposed Small House under that approved application has been developed with the southern portion for garden area. The current application is to utilize the garden area for another Small House development. According to DLO/N, the Mother Lot (i.e. 1569 S.B in D.D. 83) had been carved out into 2 parts (i.e. Lots 1569 S.B ss.1 and 1569 S.B RP) to facilitate the proposed Small House development under current application.
- 11.6 There are 14 similar applications for Small House development in the vicinity of the Site. Except for application No. A/NE-LYT/305, all other applications were approved with conditions between January 2005 and December 2014 (i.e. before a more cautious approach is adopted by the Board) by the Committee mainly on consideration that the applications generally complied with the Interim Criteria at the time of consideration. The remaining application (No. A/NE-LYT/305) was rejected by the Committee in May 2005 mainly on grounds that the proposed Small Houses fell entirely outside the “V” zone and the ‘VE’ of a recognized village.
- 11.7 The local comment conveyed by DO(N), HAD and public comment supporting the application as detailed in paragraphs 9.1 and 10 above are noted. Regarding the adverse public comment objecting to the application mainly on the grounds of available land within the “V” zone 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 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 29.11.2023, 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 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 VII**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for members' reference:

the proposed development is not in line with the planning intention of the "AGR" zone in Lung Yeuk Tau and Kwan Tei South area 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.

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

Appendix I
Appendix II

Application Form with attachments received on 11.10.2019
Relevant Interim Criteria for Consideration of Application for New

Appendix III	Territories Exempted House (NTEH)/Small House in New Territories
Appendix IV	Previous Applications 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
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plans A-2b to A-2c	Estimated Amount of Land Available within the “V” zone of Lung Yeuk Tau village cluster for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
NOVEMBER 2019