

RNTPC Paper No. A/YL-KTN/627  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 19.10.2018

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

**APPLICATION NO. A/YL-KTN/627**

- Applicant** : Mr. TANG Lok-San
- Site** : Lots 597A S.I (Part) and 597A S.V (Part) in D.D. 109, Shui Tau Tsuen, Chi Ho Road, Kam Tin, Yuen Long
- Site Area** : 69.489 m<sup>2</sup>
- Lease** : New Grant Agricultural Lots
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Village Type Development” (71%)  
[maximum building height of 3 storeys (8.23m)]  
  
“Agriculture” (“AGR”) (29%)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for the development of a proposed house (New Territories Exempted Houses (NTEH) - Small House) at the application site (the Site). As indicated by the applicant, he is an indigenous villager of Shui Tau Tsuen<sup>1</sup>. The Site falls partly within “V” zone (71%) and partly within “AGR” zone (29%). According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted under “V” zone, whereas ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Site is not the subject of any previous application and is currently vacant and covered with vegetation.

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<sup>1</sup> District Lands Officer/Yuen Long of Lands Department (DLO/YL, LandsD) advised that the indigenous villager’s status and eligibility of the applicant is not yet verified.

1.2 The major planning parameters of the proposed NTEH are as follows:

Covered Area	:	65.03 m <sup>2</sup>
Total Domestic Gross Floor Area	:	195.09 m <sup>2</sup>
No. of Block	:	1
No. of Storeys	:	3
Building Height	:	8.23 m

1.3 The applicant has indicated that the septic tank for the proposed Small House development would be located within the Site adjoining the Small House (**Drawing A-1**). The layout plan as submitted by the applicant is in **Drawings A-1**.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with plans received on 23.8.2018 (Appendix I)
- (b) Supplementary Information (SI) received on 28.8.2018 (Appendix Ia)
- (c) Further Information (FI) received on 20.9.2018 clarifying parking provision (Appendix Ib)  
*(accepted and exempted from publication and recounting requirements)*
- (d) FI received on 2.10.2018 and 3.10.2018 providing further justifications and responding to public comments (Appendix Ic)  
*(accepted and exempted from 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 SI at **Appendix Ia** and FI at **Appendices Ib to Ic**. They can be summarized as follows:

- (a) The Site is not far away from the village cluster and more than 70% of the Site is within “V” zone. There are several Small House applications approved by the Rural and New Town Planning Committee (the Committee) in the vicinity of the Site.
- (b) The Site has been left vacant for years and there is no agricultural activity carried out on/nearby the Site. Adverse impact on agricultural activity is not anticipated.
- (c) The proposed Small House will be used by the applicant and his family and not intended for sale. The proposed location of the septic tank is away from the existing stream course and no adverse impact on the stream course is anticipated. Should the application be approved, landscaping measures would be implemented to enhance the environmental quality.

**3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is the sole “current land owner” of the respective lots. Detailed information would be deposited at the meeting for Member’s inspection.

**4. Assessment Criteria**

The Interim Criteria for Consideration of Application for 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 respectively. The latest set of Interim Criteria, promulgated on 7.9.2007, is at **Appendix II**.

**5. Background**

The Site is not subject to active enforcement case.

**6. Previous Application**

The Site is not the subject of any previous application.

**7. Similar Applications**

7.1 There are eleven similar applications (Nos. 153, 177, 265, 284 to 286, 380, 469, 470, 472 and 545) for Small House developments within/straddling over the same “V” zone and “AGR” zone in the vicinity of the Site on the Kam Tin North OZP since the first promulgation of the Interim Criteria in November 2000. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

7.2 Ten applications (Nos. A/YL-KTN/153, 177, 265, 284 to 286, 469, 470, 472 and 545) were rejected by the Committee or the Board on review on 14.2.2003, 15.8.2003, 23.3.2007 and 1.2.2008 (for Applications No. A/YL-KTN/284 to 286), 7.8.2015 (for Applications No. A/YL-KTN/469, 470 and 472) and 23.12.2016 respectively. The applications were rejected mainly on the grounds that the developments did not comply with the planning intention of “AGR” zone and the Interim Criteria in that the sites fell outside “V” zone and ‘village environs’ (‘VE’), there was no shortage of land in meeting the demand for Small House developments in “V” zone in general and/or insufficient information to demonstrate why land within “V” zone could not be made available for Small House developments; the proposed Small Houses were incompatible with the surrounding environment; and there was insufficient information in the submission to demonstrate that the proposed use would not generate adverse impacts on the surrounding areas.

7.3 Application No. A/YL-KTN/380 was approved with conditions by the Committee on 15.5.2012 mainly on the reasons that the proposed development complied with the Interim Criteria in that more than 50% of the footprint of the proposed development fell within “V” zone and there was a shortage of land within “V” zone to meet the demand of Small House development; relevant development, except DAFC, had no

adverse comment on the application; and though DAFC did not support the application, there was no active agricultural activities carried out on the site.

## **8. The Site and its Surrounding Areas (Plans A-1 to A-4)**

8.1 The Site is:

- (a) currently vacant and covered with vegetation; and
- (b) accessible from Chi Ho Road via a local track (**Plan A-3**).

8.2 The surrounding areas are predominately rural in character and surrounded by residential dwellings/structures, cultivated/fallow agricultural land, open storages and vacant/unused land (**Plans A-1 and A-2**):

- (a) to its north within “AGR” zone are a stream course, residential dwellings/structures, open storages and vacant/unused land; and
- (b) to its south, east and west within “V” zone are cultivated/fallow agricultural land and unused/vacant land with a residential dwelling/structure located to the further west. To its further south is Chi Ho Road.

## **9. Planning Intentions**

9.1 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. 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.

9.2 The planning intention of the “AGR” zone is 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.

## **10. Comments from Relevant Government Departments**

10.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessments are summarized in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> <li>- Application site</li> <li>- Footprint of the proposed Small House</li> </ul>	<p>71%</p> <p>68.9%</p>	<p>29%</p> <p>31.1%</p>	<ul style="list-style-type: none"> <li>- The remaining portions of the Site and the footprint of the proposed Small House fall within the “AGR” zone.</li> <li>- More than 50% of the footprint of the proposed Small House fall inside “V” zone.</li> </ul>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- Application site</li> <li>- Footprint of the NTEH/Small House</li> </ul>	<p>--</p> <p>--</p>	<p>100%</p> <p>100%</p>	<p>According to the information provided by DLO/YL, LandsD, the Site does not fall within any Village Environs Boundary (VEB) of recognized village.</p>
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p> <p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	<p>✓</p> <p>✓</p>	<p>--</p> <p>--</p>	<ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai: about 6.25 ha (or equivalent to 250 Small House sites). The outstanding Small House applications for Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai (as at September 2018) are 115<sup>2</sup> while the 10-year (2017-2026) Small House demand forecast is 135<sup>3</sup> (excluding Shui Tau Tsuen<sup>4</sup> as advised by the Indigenous Inhabitant Representative (IIR)).</li> <li>- Land available to meet Small House demand within the “V” zone of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai: about 8.57 ha (or equivalent to about 343 Small House sites).</li> </ul>
4.	<p>Compatible with the planning intention of “AGR” zone?</p>	<p>--</p>	<p>✓</p>	<p>Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point</p>

<sup>2</sup> Including the Small House application at the Site received by DLO/YL of LandsD in 2014.

<sup>3</sup> The figure was provided by the Indigenous Inhabitant Representatives of the said villages and DLO/YL is unable to verify such information.

<sup>4</sup> DLO/YL of LandsD advised that the figure of 10-year Small House demand for Shui Tau Tsuen has not been provided by the Indigenous Inhabitant Representative.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				of view as agricultural activities in the vicinity are active and the Site possesses a potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓	--	The surrounding areas are predominately rural in character with residential dwellings/structures, cultivated/fallow agricultural land, open storages and unused/vacant land.
6.	Within Water Gathering Grounds?	--	✓	Chief Engineer/Construction, Water Supplies Department (CE/C of WSD) has no comment on the application.
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 comment on the applications. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Local objection received from DO?	--	✓	The District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD) has no comment on the application.
10.	Others	✓	--	Detailed comments of Government departments are at <b>Appendix IV</b> .

10.2 Comments from the following Government departments have been incorporated in paragraphs 5 and 10.1 above. Detailed comments are at **Appendix IV**.

- (a) District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD);
- (b) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (c) Director of Environmental Protection (DEP);
- (d) Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD);
- (e) Commissioner for Transport (C for T);
- (f) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (g) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (h) District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD);
- (i) Director of Agriculture, Fisheries and Conservation (DAFC);
- (j) Director of Electrical and Mechanical Services (DEMS) and

(k) Director of Fire Services (D of FS).

10.3 The following departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Commissioner of Police (C of P); and
- (d) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD).

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

11.1 On 31.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.9.2018, seven public comments were received from seven individuals (**Appendices V-1 to V-7**).

11.2 The commenters object to the application mainly on the grounds that the proposed Small House development is not in line with the planning intention of “AGR” zone and no strong justification for departure from the planning intention is provided; approving the application would set undesirable precedent to encourage further encroachment on “AGR” zone; the “V” portion of the Site has sufficient space for Small House development and not necessary to extend the proposed development to the “AGR” zone; the proposed development would cause adverse impact to agricultural activities, narrow the river channel and affect the landscape and ecological environment; and septic tank should be phase out.

## **12. Planning Considerations and Assessments**

12.1 The Site falls partly within the “V” zone (71%) and partly within the “AGR” zone (29%). The proposed Small House development is not in line with the planning intention of “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. Besides, DAFC does not support the application from the agricultural point of view as agricultural activities in the vicinity of the Site are active and the Site possesses potential for agricultural rehabilitation. There is no strong planning justification provided in the submission for departure from the planning intention of “AGR” zone.

12.2 Based on the DLO/YL of LandsD’s latest records, the total number of outstanding Small House applications for Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai is 115 (i.e. 2.875 ha) while the 10-year Small House demand forecast (2017-2026) for Shui Mei Tsuen and Kam Hing Wai<sup>5</sup> is 135 (i.e. 3.375 ha). According to the latest estimation by PlanD, about 8.57 ha (i.e. equivalent to about 343 Small House sites) of land is available within “V” zone of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai. Based on the available information, there is no shortage of land in meeting both the outstanding and 10-year Small House demand

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<sup>5</sup> DLO/YL of LandsD advised that the figure of 10-year Small House demand for Shui Tau Tsuen has not been provided by the Indigenous Inhabitant Representative.

forecast (i.e. about 250 Small House sites or equivalent of about 6.25 ha of land).

- 12.3 The proposed Small House development does not comply with the Interim Criteria. Though majority of the Site and the footprint of the proposed Small House fall within “V” zone, there is no shortage of land in meeting the Small House demand of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai as mentioned in paragraph 12.2 above. In this regards, no sympathetic consideration would be given to the proposed Small House application according to the Interim Criteria.
- 12.4 There are eleven similar applications (No. 153, 177, 265, 284 to 286, 380, 469, 470, 472 and 545) for Small House developments within/straddling over the same “V” zone and “AGR” zone in the vicinity of the Site. All, except application No. A/YL-KTN/380, were rejected by the Committee or the Board on review between 2003 and 2016 mainly on the grounds that the proposed Small House developments were not in line with the Interim Criteria in that there was no shortage of land within the “V” zone in meeting the demand for Small House development or the sites fell outside the “V” zone and ‘VE’ (paragraph 7.2 refers). Application No. A/YL-KTN/380 was approved by the Committee under sympathetic consideration, mainly for the reasons that the proposed Small House development was in line with the Interim Criteria in that more than 50% of the footprint of the proposed development fell within “V” zone and there was a shortage of land within “V” zone to meet the demand of Small House development. For the subject application, there is no strong justification for the development of the Small House outside the “V” zone. Such application for Small House outside “V” zone should not be encouraged to frustrate the planning intention of “AGR” zone. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 12.5 Seven public comments objecting to the application were received during statutory publication period as mentioned in paragraph 11 above. In this regard, the planning considerations and assessments as stated above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, 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 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. There is no strong planning justification in the submission for a departure from the planning intention; and
  - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no shortage of land in meeting the demand for Small House development in the “V” zone in general, and there is no exceptional circumstances that merit approval of the application. Small

House development should be more appropriate to concentrate close to the existing village cluster for more orderly development pattern, efficient use of land and provision of infrastructure and services.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 19.10.2022, 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 VI**.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the applications, 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.
- 14.3 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.

**15. Attachments**

<b>Appendix I</b>	Application Form received on 23.8.2018
<b>Appendix Ia</b>	Supplementary Information received on 28.8.2018
<b>Appendix Ib</b>	Further Information received on 20.9.2018 clarifying parking provision
<b>Appendix Ic</b>	Further Information received on 2.10.2018 and 3.10.2018 providing further justifications and responding to public comments
<b>Appendix II</b>	Extract of the Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	Similar applications within/straddling over the same "V" and

	“AGR” zones on the OZP
<b>Appendix IV</b>	Detailed comments from relevant Government departments
<b>Appendices V-1 to V-7</b>	Public comments received during the statutory publication period
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER2018**