

RNTPC Paper No. A/YL-KTN/614  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 17.8.2018

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

**APPLICATION NO. A/YL-KTN/614**

- Applicant** : Mr. WONG Kwan Hap represented by Chief Force Limited
- Site** : Lots 942 S.B RP and 942 S.C RP in D.D. 109, Tai Kong Po Tsuen, Pat Heung, Yuen Long
- Site Area** : About 230.4 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- 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 Tai Kong Po Tsuen<sup>1</sup>, which is post 1898 recognized village. 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 the “AGR” zone, which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of 2 previous applications Nos. A/YL-KTN/111 and 310 for proposed house (NTEH - Small House) which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 5.5.2000 and 19.9.2008. The planning permission of the last application No. A/YL-KTN/310 submitted by the same applicant as the current application lapsed on 20.9.2016.

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<sup>1</sup> According to the record of District Lands Officer/Yuen Long of Lands Department (DLO/YL, LandsD), the applicant is a villager of Tai Kong Po Tsuen and his villager’s status was certified by the then Chairman of Pat Heung Rual Committee (PHRC).

1.3 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

1.4 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, section plan cum fire service installations proposal and emergency vehicular access (EVA) plan as submitted by the applicant are in **Drawings A1 to A3**.

1.5 In support of the application, the applicant has submitted the following document:

- (a) Application form with plans and planning statement received on **(Appendix I)** 21.6.2018

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

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

- (a) According to Lands Department's information promulgated in 2009, Tai Kong Po Tsuen is a recognised village in Yuen Long and is entitled for building NTEH. The applicant is an indigenous villager of Tai Kong Po Tsuen. The Site is situated within the village 'environ' ("VE").
- (b) The applicant resides in Tai Kong Po Tsuen and the Site is the only land owned by the applicant.
- (c) The Site is located within the village cluster and served with good drainage facilities. An existing EVA which satisfied Fire Services Department's requirement on width and headroom, as well as a fire pedestal is found near the Site. Suitable fire service installations (FSIs) will be provided in the proposed Small House. Landscaping will be provided within the Site if necessary.

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

The applicant is the sole "current land owner" of the respective lot. 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 any active enforcement case.

## 6. **Previous Applications**

- 6.1 The Site is the subject of 2 previous applications Nos. A/YL-KTN/111 and 310 for proposed houses (NTEHs-Small House) which were approved with conditions by the Committee on 5.5.2000 and 19.9.2008 respectively. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plans A-1 and A-2**.
- 6.2 Application No. A/YL-KTN/111 for a proposed house (NTEH/Small House) covering a larger site (i.e. lot 942, the mother lot of lots 942 S.A, 942 S.B ss.1<sup>2</sup>, 942 S.B RP, 942 S.C RP, 942 S.C ss.1<sup>3</sup> and 942 RP) (**Plan A-2**) and submitted by a different applicant as the current application was approved with conditions by the Committee on 5.5.2009 mainly on the reasons that the proposed development was compatible with the surrounding village settlement of Tai Kong Po; similar applications in the vicinity of the Site have been approved by the Committee; District Lands Officer/Yuen Long of Lands Department (DLO/YL, LandsD) advised that the Site is located within the "Village Environs" ("VE") of Tai Kong Po (a post-1898 recognised village); and no adverse comment from major government departments consulted has been received. Subsequently, a small house was built in 2005 at the northeast corner of Lot 942 S.A.
- 6.3 Application Nos. A/YL-KTN/310 for proposed NTEH/Small House covering the same site area (i.e. lots 942 S.B RP and 942 S.C RP) (**Plan A-2**) and submitted by the same applicant as the current application was approved with conditions on 19.9.2008 mainly on the reasons as stated in paragraph 6.2 above. The planning permission lapsed on 20.9.2016.

## 7. **Similar Applications**

- 7.1 There are 21 similar applications (No. 217, 228, 257, 269, 296 to 298, 358 to 361, 387, 396, 460, 467, 471, 477, 530, 555, 576 and 589) for Small House development within the same "AGR" zone and the 'VE' of Tai Kong Po Tsuen 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 IV** and their locations are shown on **Plan A-1**.
- 7.2 19 applications (No. A/YL-KTN/217, 257, 269, 296 to 298, 358 to 361, 396, 460, 467, 471, 477, 530, 555, 576 and 589) were approved by the Committee on 28.1.2005, 29.9.2006, 2.2.2007, 23.5.2008, 6.6.2008 (for Applications Nos. A/YL-KTN/297 and 298), 6.5.2011 (for Applications Nos. A/YL-KTN/358 to 361), 23.11.2012, 6.2.2015,

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<sup>2</sup> Lot 942 S.B ss.1 subject to an approved application No. A/YL-KTN/297 for proposed NTEH/Small House which was approved on 6.6.2008.

<sup>3</sup> Lot 942 S.C ss.1 subject to an approved application No. A/YL-KTN/298 for proposed NTEH/Small House which was approved on 6.6.2008.

17.7.2015, 7.8.2015, 18.9.2015, 29.7.2016, 7.4.2017, 27.10.2017 and 16.3.2018 respectively on similar reasons that the developments fell within the 'VE' of Tai Kong Po; the proposed developments were not incompatible with the surrounding village houses; there was no adverse comment from the relevant departments including the Director of Agriculture, Fisheries and Conservation (DAFC) (all except Applications Nos. A/YL-KTN/217, 297, 298, 460 and 589). Though DAFC did not favour applications Nos. A/YL-KTN/217, 297, 298, 460 and 589 as the agricultural activities in the vicinity of the sites concerned were still active, it was noted that there was no agricultural activity on the sites concerned and the proposed small scale NTEHs were considered compatible with the surrounding village settlement of Tai Kong Po; applications Nos. A/YL-KTN/217 and 257 involved previous planning approvals before promulgation of the Interim Criteria mentioned in paragraph 4 above (A/YL-KTN/217) and a site with building status under the lease (A/YL-KTN/257) respectively.

- 7.3 Application No. A/YL-KTN/228 for proposed four NTEHs/Small Houses was rejected by the Committee on 24.6.2005 on the grounds that the proposed development was not in line with the planning intention of the "AGR" zone, no strong justification was given for a departure from the planning intention; and the development did not meet the interim criteria for assessing planning applications for NTEH/Small House development in that the application site fell outside the "Village Type Development" ("V") zone and there was no information to demonstrate why suitable sites within the areas zoned "V" could not be made available for the proposed development. The subject site was subsequently approved with conditions for Small Houses development by the Committee on 6.5.2011 under applications Nos. A/YL-KTN/358 to 361 (**Plan A-1** and paragraph 7.2 above refer).
- 7.4 Application No. A/YL-KTN/387 for a NTEH/Small House was rejected by the Committee on 10.8.2012 on similar grounds as those set out in paragraph 7.3 above, adding that the applicant was from Ho Pui Tsuen but the applicant has not demonstrate why suitable sites in Pat Heung area zoned "V" cannot be made available for the proposed development.

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

- 8.1 The Site is:
- (a) currently vacant and covered by grass;
  - (b) located within the "VE" of Tai Kong Po and within village cluster of Tai Kong Po; and
  - (c) accessible to Kong Tai Road via a local track.
- 8.2 The surrounding areas are predominatly rural in character and surrounded by residential dwellings/structures/village houses, storage yards, vacant/unused land and parking of vehicles:
- (a) to its east are residential dwellings/structures;

- (b) to its south are residential dwellings/structures, of which four sites are under approved planning applications (Nos. A/YL-KTN/298, 477, 530 and 589) for proposed NTEHs/Small Houses, a pond and vacant/unused land;
- (c) to its west are residential dwellings/structures, vacant/unused land and a site for electric power radio control car track, which is an unauthorized development subject to action by the Planning Authority; and
- (d) to its north are residential dwellings/structures, of which two sites are under approved applications (Nos. A/YL-KTN/111 and 297) for proposed NTEHs/Small Houses, a chicken farm and vacant land.

**9. Planning Intention**

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 application meets the assessment criteria for NTEH/Small House development as there is currently no “V” zone covering Tai Kong Po Tsuen and the Site falls within the ‘VE’ of Tai Kong Po Tsuen. The assessments are summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Application site  - Footprint of the NTEH/Small House	--  --	✓ 100%  ✓ 100%	Currently there is no “V” zone covering Tai Kong Po but only the “V” zone covering Cheung Kong Tsuen to the southwest of the Site ( <b>Plan A-1</b> )
2.	Within ‘VE’? - Application site  - Footprint of the NTEH/Small House -	✓ 100%  ✓ 100%	--  --	According to the information provided by DLO/YL, LandsD, the Site falls within the ‘VE’ of Tai Kong Po (a post-1898 recognized village).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?	--	✓	<ul style="list-style-type: none"> <li>- Although there is a “V” zone covering the nearby Cheung Kong Tsuen, DLO/YL of LandsD advises that Tai Kong Po is a post-1898 recognized village. Under the existing Small House policy, Small House application from a villager of a post-1898 recognized village to build a small house in another village other than his own village, in general, will not be considered.</li> <li>- The number of outstanding Small House applications of Tai Kong Po (as at 9.7.2018) is 13.</li> <li>- The 10-year (2018-2027) forecast of Small House demand for Tai Kong Po is 10<sup>4</sup>.</li> <li>- Land required to meet the Small House demand in Tai Kong Po Tsuen: about 0.575ha (equivalent to 23 Small House sites)</li> <li>- No “V” zone to meet Small House demand.</li> </ul>
4.	Compatible with the planning intention of “AGR” zone?	--	✓	The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view against the application as the Site has been enclosed by domestic structures/village houses and the potential for agricultural rehabilitation is low.
5.	Compatible with surrounding area/ development?	✓	--	The surrounding areas are predominately rural in character and within a cluster of village houses.
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?	--	✓	

<sup>4</sup> The figure was provided by the Pat Heung Rural Committee in response to DLO/YL’s enquiry and DLO/YL is unable to verify such information.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 application. 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 particular comment on the application.
10.	Others	✓	--	Detailed comments of Government departments are at <b>Appendix V</b> .

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

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

10.3 The following departments have no comment on the application:

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) 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 29.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.7.2018, 4 public comments were received from four individuals (**Appendices VI-1 to VI-4**).

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 was provided; approval of the proposed development would set undesirable precedents to encourage further encroachment on “AGR” zone and contravene Government’s effort in promoting sustainable development of local agriculture; approval of the application would be unfair to other rejected applications in “AGR” zone; Tai Kong Po is not an indigenous village and the villager is not entitled to build small houses; no information is provided in the submission on whether this is a cross-village application and the supply of land in “V” zone; and proposed development would cause adverse traffic impacts and degradation of the nearby environment.

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

- 12.1 The Site falls within “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. Although the proposed development is not in line with the planning intention of “AGR” zone, DAFC has no strong view on the application as the Site has been enclosed by domestic structures and its potential on agricultural rehabilitation is low. In addition, the proposed Small House is considered not incompatible with the surrounding land uses, which are predominantly rural in character and surrounded by residential dwellings/structures/village houses. In this regard, significant adverse traffic, drainage, environmental and landscape impacts on the surrounding area is not anticipated. Relevant concerned departments consulted, including DAFC, CTP/UD&L of PlanD, C for T, DEP, CE/MN of DSD and D of FS, have no adverse comment on or objection to the application. Requirements of the DLO/YL of LandsD, CTP/UD&L of PlanD and CE/MN of DSD will be included in approval conditions in paragraph 13.2 (a) to (c) below.
- 12.2 Since the first OZP for Kam Tin North, a “V” zone at Cheung Kong Tsuen to the southwest of the Site had been designated to serve both Cheung Kong Tsuen and Tai Kong Po villages<sup>5</sup> (**Plan A-1**). However, according to the prevailing Small House policy as advised by DLO/YL of LandsD, the villagers of Tai Kong Po can only apply Small Houses within the ‘VE’ of Tai Kong Po. In this regard, the Site falls within the ‘VE’ of Tai Kong Po and the subject application meets the Interim Criteria as the Site is located entirely within the ‘VE’ and there is no “V” zone for Tai Kong Po to meet the outstanding applications and 10-year demand for Small Houses of Tai Kong Po, which is estimated to be 23 in total according to DLO/YL of LandsD (requiring land of about 0.575 ha). Besides, DLO/YL of LandsD has no adverse comment on the application. In light of the above, sympathetic consideration could be given to the application according to the Interim Criteria.
- 12.3 The Site is the subject of 2 previous applications No. A/YL-KTN/111 and 310 covering different site areas for proposed houses (NTEHs - Small Houses) which were approved by the Committee in 2000 and 2008 respectively. In addition, there

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<sup>5</sup> In the first Kam Tin North OZP No. S/YL-KTN/1 gazetted in 1994, the ‘VE’ boundaries of the two recognized villages of Tai Kong Po and Cheung Kong Tsuen were not available. A “V” zone was designated at Cheung Kong Tsuen to meet the Small House demand of both villages, taken into account Cheung Kong Tsuen being relatively more accessible from major roads.



are 19 similar applications for Small House development within the ‘VE’ of Tai Kong Po (**Plan A-1**) approved by the Committee<sup>6</sup> between 2005 and 2018, including 4 applications Nos. A/YL-KTN/298, 477, 530 and 589 located to the south of the Site, and application No. A/YL-KTN/297 located to the north of the Site (**Plan A-2**). Approval of the current application would be in line with the Committee’s decisions on similar applications in Tai Kong Po taking into account that there is no “V” zone covering Tai Kong Po Tsuen and DLO/YL of LandsD advised that Tai Kong Po is a post-1898 recognized village and Small House applications of Tai Kong Po must be processed within the ‘VE’ of Tai Kong Po Tsuen currently zoned “AGR”.

- 12.4 4 public comments objecting to the application were received during the public inspection period as mentioned in paragraph 11 above. In this regard, C for T and DAFC have no adverse comment on the application. Relevant governments’ comments and planning considerations and assessments as stated above are also 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 has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 17.8.2022, 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;
- (b) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (c) 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**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference:

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<sup>6</sup> For similar applications, only approved cases after the first promulgation of the Interim Criteria in November 2000 were included.

the proposed development is not in line with the planning intention of the “AGR” zone which is to retain and safeguard good agricultural land /farm/fish ponds for agricultural purpose. It is also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from such planning intention.

#### **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 21.6.2018
<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>	Previous applications covering the Site
<b>Appendix IV</b>	Similar applications within the same “AGR” zone on the OZP
<b>Appendix V</b>	Detailed comments from relevant Government departments
<b>Appendices VI-1 to VI-4</b>	Public comments received during the statutory publication period
<b>Appendix VII</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Site Emergency Vehicular Access Plan
<b>Drawing A-3</b>	Section Plan cum Fire Service Installations Proposal
<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  
AUGUST 2018**