

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

**APPLICATION NO. A/YL-TT/464**

<b><u>Applicant</u></b>	:	Mr. YIP Tsz Man represented by Miss TSENG Ka Man
<b><u>Site</u></b>	:	Lot 3078 S.B in D.D.120, Tin Liu Tsuen, Tai Tong, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	176.2 m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”) (about 57.6%)  “Village Type Development” (“V”) (about 42.4%) [restricted to a maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	:	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who claims to be an indigenous villager of Tin Liu Tsuen<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ within the “V” zone is always permitted, while ‘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). The Site is currently formed and vacant.

1.2 Details of the proposed Small House development are as follows:

Total floor area	:	195.09 m <sup>2</sup>
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m

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<sup>1</sup> The District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

The uncovered area of the Site is proposed for garden use. Layout of the proposed Small House is shown on **Drawing A-1**.

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

- (a) application form with attachment and plans received on **(Appendix I)** 10.4.2019

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

The justifications put forth by the applicant in support of the application are detailed in the attachment to the application form at **Appendix I**. They can be summarised as follows:

- (a) The applicant is an indigenous villager of Tin Liu Tsuen. The Board has approved similar applications in the past.
- (b) About 55% of the proposed Small House footprint is within the “V” zone, with the remaining 45% in the “AGR” zone. Land suitable for Small House development within the “V” zone of Tin Liu Tsuen is limited where there are voluminous Small House applications. It is almost impossible to purchase land that is entirely within the “V” zone to build Small Houses.
- (c) There are no watercourses within 30m of the Site. The proposed Small House is compatible with the surrounding and will not give rise to any negative impact.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Assessment Criteria**

The set of 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. The latest set of Interim Criteria is at **Appendix II**.

## **5. Background**

The Site is currently not subject to planning enforcement action.

## **6. Previous Application**

There is no previous application at the Site.

## **7. Similar Applications**

- 7.1 There are eight similar applications (No. A/YL-TT/168, 213, 214, 215, 350, 356, 382 and 390) for NTEH/Small House development within or straddling the same “V” and/or “AGR” zones since the first promulgation of the Interim Criteria on 24.11.2000. Out of the eight applications, five were approved with/without conditions, while the remaining three were rejected. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 7.2 The five approved applications (No. A/YL-TT/168, 213, 214, 350 and 390) were approved with/without conditions by the Committee of the Board between 2004 and 2016 mainly on the considerations that the proposals were generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the “V” zone; there was a general shortage of land to meet the demand for Small House development in the concerned “V” zones at the time of consideration; the proposal was not incompatible with the surrounding areas; relevant government departments consulted had no adverse comment on the proposal (except for the Director of Agriculture, Fisheries and Conservation (DAFC) for applications No. A/YL-TT/213 and 350); and no local objections were received on the applications.
- 7.3 Application No. A/YL-TT/215 was rejected by the Committee on 2.11.2007 on the consideration that the proposal was not in line with the planning intention of the “AGR” zone; the proposal did not comply with the Interim Criteria in that there was no general shortage of land in meeting the demand of Small House development at the time of consideration and more than 50% of the proposed NTEH footprint fell outside the “V” zone; and no information was submitted to demonstrate that there were no suitable sites within the “V” zone for the proposed development.
- 7.4 Applications No. A/YL-TT/356 and 382 were rejected by the Committee on 9.10.2015 and 15.7.2016 respectively on similar considerations as application No. A/YL-TT/215, except for the additional consideration that the proposed Small House footprints fell entirely outside the village environ (‘VE’) and “V” zone (for the former application); and that sufficient land was still available within the “V” zone of Muk Kiu Tau Tsuen to meet the demand of Small House development (for the latter application).

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

- 8.1 The Site is:
- (a) located at the southern fringe of Tin Liu Tsuen;
  - (b) accessible by a local track leading from Kiu Hing Road (**Plans A-2a and A-3**); and
  - (c) generally flat, formed and vacant.

- 8.2 The surrounding areas have the following characteristics (**Plan A-2a**):
- (a) predominantly rural in character with residential structures generally to the north and fallow/cultivated agricultural land to the immediate south and east;
  - (b) some scattered vacant land and parking of vehicles can be found in the vicinity, with site office and open storage uses also found to the west of the Site;
  - (c) isolated storage uses can be found to the further north and south of the Site; and
  - (d) the aforementioned parking of vehicles, site office, storages and open storage yard in the vicinity of the Site are mostly suspected unauthorised developments subject to enforcement action taken by the Planning Authority.

## 9. Planning Intentions

- 9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 9.2 The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

## 10. Comments from Relevant Government Departments

- 10.1 The application has been assessed against the Interim Criteria at **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?			
-	Footprint of the proposed Small House	58.4%	41.6%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- Application Site	42.4%	57.6%	
2.	Within 'VE'?			
	- Footprint of the proposed Small House	-	100%	- The Site falls entirely outside the 'VE' of Tin Liu Tsuen ( <b>Plan A-2a</b> ).
	- Application Site	-	100%	
3.	Sufficient land in "V" zone to satisfy outstanding Small House applications and 10-year Small House demand?	✓		- Land required to meet Small House demand in Tin Liu Tsuen and Sham Chung Tsuen is <u>about 6.68 ha (equivalent to about 267 Small House sites)</u> , including 69 outstanding Small House applications (i.e. about 1.73 ha of land) and a 10-year Small House demand forecast of 198 houses (i.e. about 4.95 ha of land).
	Sufficient land in "V" zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the "V" zones of Tin Liu Tsuen and Sham Chung Tsuen is <u>about 7.38 ha (equivalent to about 295 Small House sites)</u> ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of "AGR" zone?		✓	- DAFC does not support the application from agricultural point of view as there are agricultural infrastructures nearby, the Site can be used for agricultural activities and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area / development?	✓		- The surrounding areas are predominantly rural in character with village houses, agricultural land and temporary structures ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Ground (WGG)?		✓	- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application. The Site is not located within water gathering ground.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto the planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no comment on the application from traffic engineering point of view.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application.
11.	Sewerage impact?		✓	- 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.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that with reference to the aerial photo of 2018, it is observed that the Site is vegetated with shrubs. In view of existing village houses in the vicinity, significant change to the village landscape character is not envisaged.
13.	Local objections received by District Officer (DO)?		✓	

10.2 Comments from the following government departments have been incorporated

in the above paragraph. Other detailed comments are at **Appendix IV**.

- (a) DLO/YL, LandsD;
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) DAFC;
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) C for T;
- (f) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (g) CE/MN, DSD;
- (h) DO (Yuen Long), Home Affairs Department (DO(YL), HAD);
- (i) DEP;
- (j) D of FS; and
- (k) CTP/UD&L, PlanD.

10.3 The following government departments have no comment on the application:

- (a) Director of Food and Environmental Hygiene (DFEH);
- (b) CE/C, WSD;
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

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

On 23.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 14.5.2019, 18 public comments were received. The Chairman of Shap Pat Heung Rural Committee (**Appendix V-13**) and three local village representatives (**Appendices V-11, 12 and 18**) supported the application on the grounds that the proposal is not incompatible with the surroundings; no adverse traffic, visual, landscape and sewerage impacts are envisaged; the proposal could improve the local environment; and/or the proposal would satisfy the housing needs of local villagers. 12 public and/or local comments supported the application either with no specific reasons given or on the basis that the proposal is not incompatible with the surrounding and would improve the local environment (**Appendices V-1 to 10, 14 and 16**). One member of the public has concerns on the proposed septic tank and alleged that the Small House would be sold on in the future (**Appendix V-15**). Designing Hong Kong Limited (**Appendix V-17**) objected to the application on the grounds that the proposal is not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone for Small House development; and approval of the application would set an undesirable precedent leading to a general degradation of the local environment.

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

12.1 The application is for proposed house (NTEH – Small House) at a site straddling the “AGR” (about 41.6% of the proposed NTEH footprint) and “V” zones (about 58.4%). The proposed Small House 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. In this regard, DAFC does not support the application from agricultural point of view as there are agricultural infrastructures (i.e. road access) nearby, the Site can be used for agricultural activities and the Site possesses potential for agricultural rehabilitation.

- 12.2 The Site is located at the southern fringe of Tin Liu Tsuen and is not incompatible with the surrounding environment. CTP/UD&L, PlanD has no objection to the application as significant adverse impact on the existing landscape resources is not anticipated. Other government departments including C for T, DEP, CE/C of WSD and CE/MN of DSD, have no adverse comment on/objection to the application.
- 12.3 According to DLO/YL, LandsD’s record, the total number of outstanding Small House applications for Tin Liu Tsuen and Sham Chung Tsuen is 69 (i.e. equivalent to about 1.73 ha of land) while the 10-year forecast of Small House demand is 198 (i.e. about 4.95 ha of land). As such, land is required to accommodate a total of 267 Small Houses within the relevant “V” zones, equivalent to about 6.68 ha of land. DLO/YL, LandsD advises that the proposed Small House falls outside the ‘VE’ of Tin Liu Tsuen (**Plan A-2a**)
- 12.4 Regarding the Interim Criteria (**Appendix II**), the Site and the footprint of the proposed Small House fall entirely outside the ‘VE’ of Tin Liu Tsuen (**Plan A-2a**). It is noted that about 295 Small House sites (equivalent to about 7.38 ha of land) are available within the relevant “V” zones for Tin Liu Tsuen and Sham Chung Tsuen, which can accommodate the outstanding Small House and the forecasted long-term Small House demand. Furthermore, it should be noted that the Board has adopted a 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. In this regard, 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, as there is no general shortage of land in meeting the demand for Small House development in the “V” zones of Tin Liu Tsuen and Sham Chung Tsuen.
- 12.5 There are eight similar applications within the subject “AGR” and “V” zones, of which three applications were rejected on the grounds that the proposal was not in line with the planning intention of the “AGR” zone; there was no general shortage of land in meeting the demand of Small House development within the “V” zones at the time of consideration; and no information was submitted to demonstrate why suitable sites within the concerned “V” zones could not be made available for Small House development. The remaining five applications were approved with/without conditions mainly on the consideration, amongst others, that the application was in line with the Interim Criteria; and relevant Government departments consulted had no adverse comment on the application. However, such considerations are not applicable to the current application. Overall,

rejecting this application would be in line with the Committee's previous decisions.

- 12.6 There were 18 public comments, including two comments raising objection/concerns on the application, received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 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, 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 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 provided in the submission to justify a departure from the planning intention; and
- (b) land is still available within the "V" zones of Tin Liu Tsuen and Sham Chung Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zones 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 31.5.2023, 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 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**.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

**15. Attachments**

<b>Appendix I</b>	Application form with attachment and plans received on 10.4.2019
<b>Appendix II</b>	Extract of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar applications within the same “AGR” and “V” zones on the OZP
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendices V-1 to V-18</b>	Public Comments Received During Statutory Publication Period
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site 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 for Small House Development within the “V” Zones
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2019**