

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.

---

<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 predominatly rural in character and surrounded by residential dwellings/strcutures, 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 reprovisioning 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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within "V" zone? - Application site  - Footprint of the proposed Small House	71%  68.9%	29%  31.1%	- The remaining portions of the Site and the footprint of the proposed Small House fall within the "AGR" zone.  - More than 50% of the footprint of the proposed Small House fall inside "V" zone.
2.	Within 'VE'? - Application site  - Footprint of the NTEH/Small House	--  --	100%  100%	According to the information provided by DLO/YL, LandsD, the Site does not fall within any Village Environs Boundary (VEB) of recognized village.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?	✓	--	<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>
	Sufficient land in "V" zone to meet outstanding Small House applications?	✓	--	
4.	Compatible with the planning intention of "AGR" zone?	--	✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point

<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

<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**

**Relevant Revised Interim Criteria for Assessing Planning Applications for  
NTEH/Small House Development in the New Territories  
( Revised on 7.9.2007 )**

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;

- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
  - (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
  - (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development<sup>^</sup>);
  - (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
  - (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.
- <sup>^</sup>i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Similar Applications for New Territories Exempted House (NTEH)/Small House Straddling Over the Same "V" Zone and "AGR" Zone (after the first promulgation of the Interim Criteria in 2000)**

**Approved Application**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)/Development(s)</u></b>	<b><u>Date of Consideration By RNTPC/TPB</u></b>	<b><u>Approval Conditions</u></b>
1.	A/YL-KTN/380	Proposed House (New Territories Exempted House - Small House)	18.5.2012	1, 2

**Approval Conditions**

1. The permission shall cease to have effect on a specific time unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.
2. The design and provision of water supplies for fire-fighting and fire service installations.

**Rejected Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)/Development(s)</u></b>	<b><u>Date of Consideration By RNTPC/TPB</u></b>	<b><u>Rejection Reasons</u></b>
1.	A/YL-KTN/153	Proposed New Territories Exempted House (NTEH) (Small House)	14.2.2003	1, 2, 3, 6
2.	A/YL-KTN/177	Proposed New Territories Exempted House (NTEH) (Small House)	15.8.2003	1, 2, 3, 6
3.	A/YL-KTN/265	New Territories Exempted Houses (NTEH) (Small Houses)	23.3.2007	1, 2, 4, 9
4.	A/YL-KTN/284	Proposed House (New Territories Exempted House - Small House)	1.2.2008	1, 2, 4, 5
5.	A/YL-KTN/285	Proposed House (New Territories Exempted House - Small House)	1.2.2008	1, 2, 4, 5
6.	A/YL-KTN/286	Proposed House (New Territories Exempted House - Small House)	1.2.2008	1, 2, 4, 5
7.	A/YL-KTN/469	Proposed House (New Territories Exempted House - Small House)	7.8.2015	1, 8

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Rejection Reasons</u>
8.	A/YL-KTN/470	Proposed House (New Territories Exempted House - Small House)	7.8.2015	1, 2, 8
9.	A/YL-KTN/472	Proposed House (New Territories Exempted House - Small House)	7.8.2015	1, 2, 8
10.	A/YL-KTN/545	Proposed Five Houses (New Territories Exempted House - Small House)	23.12.2016	1, 2, 10

#### Rejection Reasons

1. The proposed development was not in line with the planning intention of the "Agriculture" zone which was to retain and safeguard good agricultural land for agricultural purpose and to retain fallow arable land with good potential for rehabilitation. No strong justification had been given in the submission for a departure from such planning intention.
2. The proposed development did not comply with the "Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories".
3. There was no strong justification in the submission to demonstrate that land was not available within the "V" zone in the area for the proposed development
4. There was insufficient information in the submission to demonstrate why suitable sites within the areas zoned "V" could not be made available for the proposed development
5. The proposed development was incompatible with the surrounding rural area. There was insufficient information/technical assessment in the submission to demonstrate that the development would not generate adverse landscape and ecological impacts on the surroundings
6. The application site is located away from the village cluster of Sha Po Tsuen/Shui Tau Tsuen and falls outside the village environs of the village. Village house development should be sited on land zoned "Village Type Development" ("V") to ensure orderly development and provision of facilities
7. No similar applications have been approved in the immediate vicinity of the application site, the approval of the application would set an undesirable precedent for other similar applications within the "AGR" zone. The cumulative effect of approving such similar applications would have adverse impacts on the environment and infrastructure provision of the area
8. Land is still available within the "Village Type Development" zone of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services
9. The proposed development did not comply with the interim criteria for assessing planning applications for NTEH/Small Houses development in that it fell outside both the 'village environs' and "Village Type Development" ("V") zone

10. 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 "Village Type Development" zone in general, and there is no exceptional circumstances that merit approval of the application. Small Houses development should be more appropriate to concentrate close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services

**Detailed Comments from the Relevant Government Departments**

**Land Administration**

1. Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises New Grant agricultural lots.
- (b) The Site does not fall within any Village Environs Boundary (VEB) of recognized village.
- (c) According to his records, a Small House (SH) application on Lot Nos. 597A S.I and 597A S.V both in D.D. 109 was received by his office on 28.4.2014 from a person who had the same name as the applicant of the current s.16 application. In the SH application form, the said person claimed himself as an indigenous villager of Shui Tau Tsuen, Kam Tin. The indigenous villager's status and eligibility of the SH applicant have not yet been verified. When the SH application is due for processing, DLO/YL of LandsD will consider the application acting in the capacity as the landlord at its sole discretion in accordance with the New Territories SH Policy, including verification of the SH applicant's status. There is no guarantee that such application would be approved.
- (d) According to his records, the proposed SH site is not covered by any Modification of Tenancy/Building License.
- (e) The number of outstanding and approved SH applications of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai (as at September 2018) are tabulated as follows:

	No. of outstanding applications	No. of approved applications
Shui Tau Tsuen	18	28
Shui Mei Tsuen	76	82
Kam Hing Wai	21*	45

\*Including SH application within the Site.

- (f) The 10-year (2017-2026) forecasts of SH demand for Shui Mei Tsuen and Kam Hing Wai are 117 and 18 respectively (figure for Shui Tau Tsuen is unpredictable). The figures of the 10-year forecast are provided by the Indigenous Inhabitant Representatives of the said villages and DLO/YL is unable to verify such information.
- (g) Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai are pre-1898 recognized villages.



- (h) His office has no objection on the approval condition in respect of the provision of septic tank.
- (i) If a proposed SH site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned SH application will be rejected under the New Territories SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission. On the other hand, consideration will be given to application for proposed house site within or at least 50% of it is within a "V" zone which encircles a recognized village and is larger than 300 feet village environs.
- (j) Should planning approval be given to the planning application, the registered lot owner should inform DLO/YL of LandsD, and DLO/YL of LandsD will consider the SH application acting in the capacity as the landlord and there is no guarantee that such application would be approved. Any applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by the LandsD.

### Traffic

#### 2. Comments of the Commissioner for Transport (C for T) :

He has no comment on the application considering there is no parking provision and the induced traffic is minimal.

#### 3. Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) It is noted from the application that there is no run-in/out and direct vehicular access to the Site are proposed.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### Agriculture

#### 4. Comments of the Director of Agriculture, Fisheries, and Conservation (DAFC):

- (a) Agricultural activities in the vicinity are active. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) There is a retained abandoned meander 43CD/1 to the north of the Site. Should the application be approved, the applicant shall be advised to avoid disturbance and pollution to the abandoned meander.

## **Environment**

### **5. Comments of the Director of Environmental Protection (DEP):**

In view of the small population and nature of the proposed development, septic tank and soakaway system is considered a suitable treatment system provided that its design and operation follows the requirements in EPD's Practice Note for Professional Person (ProPECC) PN 5/93 'Drainage Plans subject to Comment by the Environmental Protection Department', including percolation test and certification by Authorised Person.

## **Landscape**

### **6. Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):**

- (a) She has no objection to the application from landscape planning perspective.
- (b) The surrounding area is predominately in rural character with a river at north side of the site boundary, some village houses at the opposite side of the river, a large piece of agricultural land in the vicinity, some tree groups and a few temporary structures. The proposed use is considered not incompatible with the existing landscape context.
- (c) Based on the site inspection on 7.9.2018, there is no significant tree observed within the site boundary. Abandoned vegetation is found in the agriculture land. It is anticipated that no adverse landscape impact would be imposed by the proposed use. Moreover, about 71% of the site area falls within "V" zone on the OZP.
- (d) Given that no area is available for landscaping around the proposed Small House, should the application be approved by the Board, landscape condition for the application is not recommended.
- (e) There is no information on existing/proposed vehicular access for the Site to facilitate construction works. The applicant is reminded that all existing trees along the construction access should not be unnecessarily felled or pruned.

## **Drainage**

### **7. Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):**

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on submission and implementation of drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **Fire Safety**

8. Comments of the Director of Fire Services (D of FS):
  - (a) He has no specific comment on the application.
  - (b) The applicant is advised to observe "New Territories Exempted Houses – A Guide to Fire Safety Requirements" published by LandsD.

### **Electricity**

9. Comments of the Director of Electrical and Mechanical Services (DEMS):
  - (a) He has no particular comment on the application from electricity supply safety aspect.
  - (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **Building Matters**

10. Comments of the Chief Building Surveyor/NTW, Buildings Department (CBS/NTW, BD):
  - (a) Noting that the building to be erected on the Site will be NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121), DLO/YL should be in a better position to comment on the application.
  - (b) In case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP's advice for details.

### **District Officer's Comments**

11. Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any locals' comment on the application and he has no particular comments on the application.

**Demand and Supply of Small House Sites**

12. According to the DLO/YL's records, the total of outstanding applications of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai (as at September 2018) are 115, while the 10-year Small House demand forecast (2017-2026) for the same villages are 135. There is about 8.57 ha of land (i.e. equivalent to about 343 Small House sites) available within the "V" zone covering Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai to meet the Small Houses demand.



Advisory clauses

- (a) note DLO/YL, LandsD's comments if a proposed Small House (SH) site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned SH application will be rejected under the New Territories SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission. On the other hand, consideration will be given to application for proposed house site within or at least 50% of it is within a "V" zone which encircles a recognized village and is larger than 300 feet village environs. The registered lot owner should inform DLO/YL of LandsD, and DLO/YL of LandsD will consider the SH application acting in the capacity as the landlord and there is no guarantee that such application would be approved. Any applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by the LandsD;
- (b) note CHE/NTW, HyD's comments that it is noted from the application that no run-in/out and direct vehicular access to the Site are proposed. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (c) note D of FS's comments that the applicant should follow the "New Territories Exempted Houses – A Guide to Fire Safety Requirements" published by LandsD;
- (d) note DEP's comments that in view of the small population and nature of the proposed development, septic tank and soakaway system is considered a suitable treatment system provided that its design and operation follows the requirements in EPD's Practice Note for Professional Person (ProPECC) PN 5/93 'Drainage Plans subject to Comment by the Environmental Protection Department', including percolation test and certification by Authorised Person (AP);
- (e) note DAFC' comments that the applicant shall be advised to avoid disturbance and pollution to the abandoned meander to the north of the Site;
- (f) note CTP/UD&L of PlanD's comments that the applicant is reminded that all existing trees along the construction access should not be unnecessarily felled or pruned;
- (g) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the

Regulation when carrying out works in the vicinity of the electricity supply lines;

- (h) note CBS/NTW, BD's comments that in case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an AP should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP's advice for details; and
- (i) note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.

**TOWN PLANNING BOARD**

**Minutes of 613<sup>th</sup> Meeting of the  
Rural and New Town Planning Committee held at 2:30 p.m. on 19.10.2018**

**Present**

Director of Planning  
Mr Raymond K.W. Lee

Chairman

Mr H.W. Cheung

Vice-chairman

Dr F.C. Chan

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Mr K.K. Cheung

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Miss Winnie W.M. Ng

Mr K.W. Leung

Dr Jeanne C.Y. Ng

Mr Ricky W.Y. Yu



105. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee's consideration. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

### Agenda Item 30

#### Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTN/627      Proposed House (New Territories Exempted House - Small House) in "Agriculture" and "Village Type Development" Zones, Lots 597A S.I (Part) and 597A S.V (Part) in D.D. 109, Shui Tau Tsuen, Chi Ho Road, Kam Tin, Yuen Long  
(RNTPC Paper No. A/YL-KTN/627)

---

#### Presentation and Question Sessions

106. Ms Ivy C.W. Wong, STP/FSYLE, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House (NTEH) - Small House);
- (c) departmental comments – departmental comments were set out in

paragraph 10 and Appendix IV of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as agricultural activities in the vicinity were active and the site possessed potential for agricultural rehabilitation. Other concerned government departments had no objection to or no adverse comment on the applications;

- (d) during the first three weeks of the statutory publication period, seven public comments objecting to the application were received from seven individuals. The major objection grounds were set out in paragraph 11 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments as set out in paragraph 12 of the Paper. The proposed Small House development was not in line with the planning intention of "Agriculture" ("AGR") zone. DAFC did not support the application and there was no strong planning justification provided in the submission for a departure from the planning intention of "AGR" zone. Regarding the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the 'Interim Criteria'), although majority of the site and the footprint of the proposed Small House fell within "Village Type Development" ("V") zone, there was no shortage of land in meeting the Small House demand of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai. Therefore, the proposed development did not comply with the 'Interim Criteria' and no sympathetic consideration would be given to the application. Similar applications within/straddling over the same "V" zone and "AGR" zone in the vicinity of the site were rejected by the Committee except one application (No. A/YL-KTN/380) that sympathetic consideration was given as there was a shortage of land within the "V" zone to meet the Small House demand at the time of consideration. It was 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. Regarding the adverse public comments,

comments of concerned departments and the planning assessments above were relevant.

107. Members had no question on the application.

Deliberation Session

108. After deliberation, the Committee decided to reject the application. The reasons were:

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” 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 “Village Type Development” zone in general, and there is no exceptional circumstances that merit approval of the application. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for more orderly development pattern, efficient use of land and provision of infrastructure and services.”

城市規劃委員會

香港北角渣華道三百三十三號  
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices  
333 Java Road, North Point,  
Hong Kong.

傳真 Fax: 2877 0245 / 2522 8426

By Post

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/YL-KTN/627

2 November 2018

Dear Sir/Madam,

**Proposed House (New Territories Exempted House - Small House)  
in "Agriculture" and "Village Type Development" Zones, Lots 597A S.I (Part)  
and 597A S.V (Part) in D.D. 109, Shui Tau Tsuen, Chi Ho Road, Kam Tin, Yuen Long**

I refer to my letter to you dated 11.10.2018.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the proposed development is not in line with the planning intention of the "Agriculture" 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 "Village Type Development" zone in general, and there is no exceptional circumstances that merit approval of the application. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for more orderly development pattern, efficient use of land and provision of infrastructure and services.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 19.10.2018, in both English and Chinese, are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a

review, you should inform me within 21 days from the date of this letter (on or before 23.11.2018). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. Ivy Wong of Fanling, Sheung Shui & Yuen Long East District Planning Office at 2158 6297.

Yours faithfully,



( Raymond KAN )  
for Secretary, Town Planning Board

(With Chinese Translation)

**Annex F of  
TPB Paper No. 10521**

**Advisory clauses**

- (a) note DLO/YL, LandsD's comments if a proposed Small House (SH) site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned SH application will be rejected under the New Territories SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission. On the other hand, consideration will be given to application for proposed house site within or at least 50% of it is within a "V" zone which encircles a recognized village and is larger than 300 feet village environs. The registered lot owner should inform DLO/YL of LandsD if planning approval is given to the planning application, and DLO/YL of LandsD will consider the SH application acting in the capacity as the landlord and there is no guarantee that such application would be approved. Any applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by the LandsD;
- (b) note CHE/NTW, HyD's comments that it is noted from the application that no run-in/out and direct vehicular access to the Site are proposed. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (c) note D of FS's comments that the applicant should follow the "New Territories Exempted Houses – A Guide to Fire Safety Requirements" published by LandsD;
- (d) note DEP's comments that in view of the small population and nature of the proposed development, septic tank and soakaway system is considered a suitable treatment system provided that its design and operation follows the requirements in EPD's Practice Note for Professional Person (ProPECC) PN 5/93 'Drainage Plans subject to Comment by the Environmental Protection Department', including percolation test and certification by Authorised Person (AP);
- (e) note DAFC' comments that the applicant shall be advised to avoid disturbance and pollution to the abandoned meander to the north of the Site;
- (f) note CTP/UD&L of PlanD's comments that the applicant is reminded that all existing trees along the construction access should not be unnecessarily felled or pruned;
- (g) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the

Regulation when carrying out works in the vicinity of the electricity supply lines;

- (h) note CBS/NTW, BD's comments that in case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an AP should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP's advice for details; and
- (i) note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.