

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

**APPLICATION NO. A/YL-KTN/875**

- Applicant** : Mr. TANG Ying Lung Daniel (with Mr. TANG Wing Hong Andrew as power of attorney)
- Site** : Lot 1504 S.A in D.D. 107, Kam Tin, Yuen Long, New Territories
- Site Area** : About 428m<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 at the time of submission  
  
Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force  
[The zoning and development restrictions for the Site remain unchanged on the current draft OZP No. S/YL-KTN/10]
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

- 1.1 The applicant, who claimed himself as an indigenous villager of Kam Tin Heung, seeks planning permission to build a NTEH (Small House) on the application site (the Site). The Site falls within an area zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). 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 Details of the proposed Small House are as follows:
- |                  |                         |
|------------------|-------------------------|
| Total floor area | : 195.09 m <sup>2</sup> |
| No. of storeys   | : 3                     |
| Building height  | : 8.23m                 |
| Roofed over area | : 65.03 m <sup>2</sup>  |
- 1.3 Layout of the proposed Small House including location of the septic tank is shown on **Drawing A-1**. The uncovered area of the Site will be used for garden and

parking of car.

- 1.4 The Site is involved in a previous application (No. A/YL-KTN/822) for temporary animal boarding establishment (dog training ground) and filling of land submitted by a different applicant which is not relevant to the current application. Details of the previous application are set out in paragraph 5 below.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with attachments received on 6.12.2022 **(Appendix I)**

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

The justifications put forth by the applicant in support of the application are detailed in the application form with attachments at **Appendix I**. They are briefly summarised as follows:

- (a) The applicant is an indigenous villager of Kam Tin Heung who is entitled to build a NTEH. The Site is the only land parcel owned by the applicant for Small House development.
- (b) The proposed Small House will not induce adverse impacts to the surrounding areas.

## **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 New Territories Exempted House/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and has been revised several times subsequently. The latest set of Interim Criteria, promulgated on 7.9.2007, is at **Appendix II**.

## **5. Previous Application**

- 5.1 Part of the Site is the subject of a previous application (No. A/YL-KTN/822), submitted by a different applicant and covering a larger site, for temporary animal boarding establishment (dog training ground) and filling of land approved by the Committee in September 2022 and is not relevant to the current application.
- 5.2 Details of the application are summarized in **Appendix II** and the location is shown on **Plan A-1**.

## 6. Similar Applications

- 6.1 There have been ten similar applications for Small House developments within or straddling over the same “AGR” zone and the adjoining “Village Type Development” (“V”) zone in the vicinity of the Site on the Kam Tin North OZP since the first promulgation of the Interim Criteria in November 2000.
- 6.2 Nine applications (No. A/YL-KTN/153, 177, 265, 284 to 286, 545, 627 and 862) were rejected by the Committee or by the Board on review between February 2003 and December 2022 mainly on the grounds that the proposed developments were not in line with the planning intention of “AGR” zone and/or the Interim Criteria in that the sites fell outside or mostly outside the “V” zone and village ‘environs’ (‘VE’); there was no general shortage of land in the “V” zone for meeting the demand for Small House development; approval of the applications would set undesirable precedents; and/or there was no sufficient information in the submissions to demonstrate that the proposed developments would not generate adverse landscape and ecological impacts.
- 6.3 Application No. A/YL-KTN/380 was approved with conditions by the Committee in May 2012 mainly for the reasons that the proposed development complied with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell within the “V” zone and there was a general shortage of land within “V” zone in meeting the Small House demand at the time of consideration; and relevant departments generally had no adverse comment on the application.
- 6.4 Details of the similar applications are summarized in **Appendix III** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
  - (a) partly covered by vegetation and partly paved and used for parking of vehicles;
  - (b) located outside the ‘VE’ of Shui Tau Tsuen and Shui Mei Tsuen; and
  - (c) accessible via a local track connecting to Shui Mei Road.
- 7.2 The surrounding areas have the following characteristics:
  - (a) to its north and northwest are a plant nursery, vacant land (which is the site approved for temporary animal boarding establishment under Application No. A/YL-KTN/822), parking of vehicles, residential structures/dwellings and grassland;
  - (b) to its east and northeast are a dog training centre (with valid planning permission under Application No. A/YL-KTN/724), grassland and vacant land within the “V” zone;

- (c) to its south, across Shui Mei Road and a nullah, are ponds, residential structures/ dwellings and tent camping ground (with valid planning permission under Application No. A/YL-KTN/829). To its further south are Shui Tau Tsuen and Shui Mei Tsuen in “V” zone; and
- (d) to its west are fallow farmland and vacant land.

## 8. **Planning Intention**

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. **Comments from Relevant Government Departments**

- 9.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone?  - The Site  - Footprint of the proposed Small House		100%  100%	- The Site and the footprint of the proposed Small House fall entirely within “AGR” zone.
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small House		100%  100%	- The District Lands Officer/Yuen Lands, Lands Department (DLO/YL of LandsD) advises that the Site and the footprint of the proposed Small House fall entirely outside the ‘VE’ of Shui Tau Tsuen and Shui Mei Tsuen ( <b>Plan A-2a</b> ).
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?	✓		<u>Land required</u> - Land required to meet the Small House demand in Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai: about 6.375ha (equivalent to 255 Small House sites). The outstanding Small House applications for Shui Tau Tsuen, Shui Mei Tsuen and Kam Tin Wai are 119 while the 10-year

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		Small House demand forecast is 136 <sup>1</sup> .  <u>Land available</u> - Land available to meet 10-year Small House demand within the “V” zone of the villages concerned: about 8.025ha (equivalent to about 321 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Site is currently vacant but agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. He does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The proposed Small House is not incompatible with the surrounding land uses which are predominantly rural in character comprising plant nursery, residential structures/ dwellings, village houses, parking of vehicles, animal boarding establishment, grassland and vacant land.
6.	Within Water Gathering Ground?		✓	- The Chief Engineer / Construction, Water Supplies Department (CE/C of WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and Emergency Vehicular Access (EVA)?		✓	- The Director of Fire Services (D of FS) has no objection in-principle to the application. The applicant is reminded to observe ‘NTEH – A Guide to Fire Safety Requirements’ published by LandsD.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) considers that Small House development should

<sup>1</sup> The figure was provided by the Indigenous Inhabitant Representatives of the said villages and DLO/YL of LandsD is unable to verify such information. DLO/YL of LandsD further advises that the figure of 10-year Small House demand forecast 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>
				be confined within the “V” zone as far as possible. Notwithstanding, the application involving the construction of one Small House can be tolerated.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection in-principle to the application from public drainage point of view and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- The Director of Environment Protection (DEP) considers that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscape impact?	✓		- The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/ UD&L of PlanD) states that significant adverse impact on the existing landscape resources arising from the proposed development is not anticipated, but has concern that approval of the application would further alter the landscape character of the “AGR” zone.
13.	Local objections conveyed by DO(YL)?		✓	- The District Officer (Yuen Long), Home Affairs Department (DO(YL) of HAD) advises that the he has not received any locals’ comment on the application and has no comment from departmental point of view.

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

- (a) DLO/YL, LandsD;
- (b) DEP;
- (c) CTP/UD&L, PlanD;
- (d) C for T;
- (e) D of FS;
- (f) CE/MN, DSD;
- (g) DAFC
- (h) DO(YL), HAD; and
- (i) CE/C, WSD.

## 10. **Public Comments Received During Statutory Publication Period (Appendix VI)**

The application was published for public inspection. During the statutory public inspection period, three public comments were received from the Kadoorie Farm & Botanic Garden Corporation and individuals. The commenters object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; there is still sufficient land within the nearby “V” zone for Small House development; approval of the application would set an undesirable precedent; the application is not justified under the Small House Policy; and the proposed development will bring about adverse traffic and environmental impacts and fire safety risk thus affecting the living quality and safety of nearby villagers.

## 11. **Planning Considerations and Assessments**

11.1 The application is for proposed Small House on the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of “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. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention.

11.2 The Site, located to the north of the “V” zone of Shui Tau Tsuen and Shui Mei Tsuen (**Plan A-2a**), is partly covered by vegetation, and partly paved and used for parking of vehicles (**Plan A-4**). It is situated in an area of rural landscape character comprising temporary structures, village houses, vacant land, farmland, ponds and scattered tree groups. The CTP/UD&L of PlanD considers that whilst significant adverse impact on the existing landscape resources arising from the proposed use is not anticipated, she has concern that approval of the application would further alter the landscape character of the subject “AGR” zone. C for T has reservation on the application and considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves only one Small House, the application could be tolerated. Other relevant government departments, including DEP, CE/MN of DSD, D of FS and CE/C of WSD, have no adverse comment on the application.

11.3 Regarding the Interim Criteria (**Appendix II**), the application does not comply with the Interim Criteria in that the footprint of the proposed Small House falls entirely outside the ‘VE’ and “V” zone of Shui Tau Tsuen and Shui Mei Tsuen. DLO/YL of LandsD states that these types of Small House applications would not be considered under the Small House Policy even if planning approval is given. Besides, according to DLO/YL of LandsD’s records, the total number of outstanding Small House applications for Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai is 119 while the 10-year Small House demand forecast for the villages concerned is 136. Based on the latest estimation by PlanD, about 8.025 ha (or equivalent to about 321 Small House sites) of land is available within the “V” zone of the concerned villages. There is no general shortage of land in meeting the demand for Small House development in the concerned “V” zone.

11.4 There are nine similar applications within the same “AGR” zone in the vicinity of the Site, all of which were rejected by the Committee or the Board on review

between February 2003 and December 2022 for reasons as stated in paragraph 6 above. The planning circumstances of the only approved application (No. A/YL-KTN/380), with more than 50% of its Small House footprint within the “V” zone and there was a general shortage of land within the “V” zone in meeting the Small House demand at the time of consideration, are different from the current application. Rejection of this application is in line with the Committee’s previous decisions.

- 11.5 Regarding the public comments as stated in paragraph 10 above, the departmental comments and planning considerations and assessments as stated above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 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 more than 50% of the footprint of the two proposed Small House fall outside the “V” zone and ‘VE’ of Shui Tau Tsuen and Shui Mei Tsuen. There is no general shortage of land in meeting the demand for Small House development in the concerned “V” zone.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 3.2.2027, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

### Approval condition

- 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 V**.

## **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.

- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.

#### **14. Attachments**

<b>Appendix I</b>	Application form with supplementary information received on 6.12.2022
<b>Appendix II</b>	Extract of relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Detailed comments of relevant government departments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2a</b>	Site plan
<b>Plan A-2b</b>	Estimated amount of land available for Small House development within the “V” zone
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
FEBRUARY 2023**