

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/948

- Applicant** : Mr. CHUI Long San represented by Mr. WONG Wing Kin
- Site** : Lot 60 S.R in D.D. 110, Tai Kong Po, Pat Heung, Yuen Long, New Territories
- Site Area** : About 163.1m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Houses (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

- 1.1 The applicant, who claims himself to be an indigenous villager and residing in Tai Kong Po¹, 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). The Site is vacant and paved.
- 1.2 Details of the proposed NTEH (Small House) are as follows:
- | | |
|------------------|------------------------|
| Total floor area | : 195.09m ² |
| No. of storeys | : 3 |
| Building height | : 8.23m |
| Roofed over area | : 65.03m ² |
- 1.3 Layout of the proposed Small House development including location of the proposed septic tank is shown on **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:

¹ According to the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD), the applicant’s eligibility for Small House grant is yet to be ascertained.

- (a) Application form with attachments received on 26.7.2023 **(Appendix I)**
- (b) Further Information (FI) received on 18.9.2023* **(Appendix Ia)**

** 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 application form with attachments and FI at **Appendices I** and **Ia**. They are briefly summarised as follows:

- (a) The applicant is a Tai Kong Po villager with his ancestors having settled in Tai Kong Po for generations and he is an indigenous villager. Planning approvals have been previously granted to his family members for developing Small Houses and the Lands Department (LandsD) has also approved those Small House applications on private agricultural lands.
- (b) The Site falls within the ‘village environ’ (‘VE’) of Tai Kong Po and the other Small Houses by the applicant’s family members are clustered together. The proposed development is not incompatible with the surrounding land uses.

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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Application

There is no previous application covering the Site.

6. Similar Applications

- 6.1 There are 24 similar applications, involving 20 sites, for Small House development within the same “AGR” zone and the ‘VE’ of Tai Kong Po in the vicinity of the Site since the first promulgation of the Interim Criteria in November 2000.
- 6.2 22 applications were approved by the Rural and New Town Planning Committee (the Committee) between January 2005 and March 2023 mainly on the considerations that the development fell within the ‘VE’ of Tai Kong Po and there was no “Village Type Development” (“V”) zone for Tai Kong Po to meet the Small House demand of the villagers thus sympathetic consideration could be given under

the Interim Criteria; the proposed development was not incompatible with the surrounding rural environment where existing village house developments could be found; and there was in general no adverse comment from relevant departments consulted including the Director of Agriculture, Fisheries and Conservation (DAFC). Though DAFC did not favour some applications (No. A/YL-KTN/217, 297, 298, 460, 589 and 884) as agricultural activities in the vicinity of the sites concerned were still active, it was noted that there was no agricultural activity on the sites concerned and the proposed NTEHs were considered compatible with the surrounding village settlement of Tai Kong Po.

- 6.3 Application No. A/YL-KTN/228 for proposed development of four Small Houses and application No. A/YL-KTN/387 involving cross-village Small House application from a Ho Pui Tsuen villager, were rejected by the Committee in June 2005 and August 2012 respectively mainly on the grounds that the proposed development did not meet the Interim Criteria in that there was insufficient information to demonstrate why suitable sites within the “V” zone could not be made available for the proposed development. Nevertheless, the site under application No. A/YL-KTN/228 was subsequently approved for Small House development by the Committee in May 2011 under applications No. A/YL-KTN/358 to 361, having taken into account LandsD’s advice that Tai Kong Po was a post-1898 recognised village of which Small House applications had to be processed within the ‘VE’ of Tai Kong Po, and similar applications within the ‘VE’ of Tai Kong Po had been approved by the Committee in recent years.
- 6.4 Details of the similar applications are summarised 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) vacant and paved;
- (b) within the ‘VE’ of Tai Kong Po; and
- (c) accessible from Kam Tai Road via Kong Po Road.

7.2 The surrounding areas have the following characteristics:

- (a) the Site is situated in a rural inland plains landscape character comprising village houses, vacant lands, temporary structures and scattered tree groups;
- (b) to the north in proximity is the village settlement cluster of Tai Kong Po;
- (c) to the east are cultivated agricultural land, office and vacant land;
- (d) to the south are open storage of vehicles, Kong Po Road and a nullah. To the further south across Kong Po Road and the nullah are open storage/storage yards;
- (e) to the west are residential structures/dwellings, vacant land and a storage

yard; and

- (f) a number of Small House developments approved by the Committee could be found in the vicinity of the Site (**Plans A-1, A-2a and A-2b**).

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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 Long, LandsD (DLO/YL of LandsD) advises that the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Tai Kong Po (Plan A-2a).
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?	✓		- Land required to meet the Small House demand in Tai Kong Po: about 0.475 ha (equivalent to 19 Small House sites). The number of outstanding Small House applications for Tai Kong Po is 9 while the 10-year Small House demand forecast ² for the same village is 10.
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		- Although there is a “V” zone covering the nearby Cheung Kong Tsuen to meet the Small House demand of Cheung Kong Tsuen and Tai Kong Po, DLO/YL of LandsD advises that Tai Kong Po is a post-1898 recognised village and under existing Small House policy,

² The figure is provided by the Pat Heung Rural Committee in response to DLO/YL of LandsD’s enquiry and DLO/YL of LandsD is unable to verify such information.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>cross-village Small House application from a post-1898 villager would not be considered. The villagers of Tai Kong Po can only build their Small Houses on land falling within the ‘VE’ of Tai Kong Po.</p> <p>- No “V” zone to meet 10-year Small House demand.</p>
4.	Compatible with the planning intention of “AGR” zone?		✓	<p>- DAFC states that agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source 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 perspective as the Site possesses potential for agricultural rehabilitation.</p>
5.	Compatible with surrounding area/ development?	✓		<p>- The proposed Small House is not incompatible with the surrounding environment which is rural in character comprising village houses, vacant lands, temporary structures and scattered tree groups.</p>
6.	Within Water Gathering Ground?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and Emergency Vehicular Access (EVA)?		✓	<p>- The Director of Fire Services (D of FS) has no objection in-principle to the application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.</p>
9.	Traffic impact?	✓		<p>- The Commissioner for Transport (C for T) advises that Small House developments should be confined within the “V” zone as far as possible but given that the application only</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				involves construction of a Small House, the application could be tolerated.
10.	Drainage impact?		✓	<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, the Drainage Services Department (CE/MN of DSD) has no objection in-principle from public drainage point of view. - An approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The Director of Environmental 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?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/ Urban Design and Landscape, the Planning Department (CTP/UD&L of PlanD) has no objection to the application from landscape planning perspective. Significant adverse impact on the existing landscape resources arising from the proposed development is not anticipated.
13.	Local objections conveyed by DO(YL)?		✓	<ul style="list-style-type: none"> - The District Officer (Yuen Long), the Home Affairs Department (DO(YL) of HAD) advises that no local objection to the application has been received.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Detailed comments 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; and
- (h) DO(YL), HAD.

9.3 The following government departments have no objection to/ no comment on the

application:

- (a) the Chief Engineer/Construction, the Water Supplies Department (CE/C, WSD);
- (b) the Chief Highway Engineer/New Territories West, the Highways Department (CHE/NTW, HyD);
- (c) the Chief Building Surveyor/New Territories West, the Buildings Department (CBS/NTW, BD);
- (d) the Commissioner of Police (C of P);
- (e) the Director of Electrical and Mechanical Services (DEMS); and
- (f) the Project Manager (West), the Civil Engineering and Development Department (PM(W), CEDD).

10. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that the Site falls within the “AGR” zone; there is no previous planning approval; and no justification is provided for the proposed development to extend the village.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good 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 agricultural perspective as the Site possesses potential for agricultural rehabilitation.
- 11.2 Although the proposed Small House development is not in line with the planning intention of the “AGR” zone, the Site is in proximity with the existing village cluster developed with village houses and residential structures/dwellings (**Plans A-2a and A-3**) to the north. The proposed Small House is not incompatible with the surrounding area of rural character comprising village houses, vacant lands and temporary structures. As significant adverse landscape impact arising from the proposed development is not anticipated, CTP/UD&L of PlanD has no objection to the application from landscape planning perspective. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the application involves construction of a Small House only, the application could be tolerated from traffic perspective. Other relevant government departments consulted including DEP, CE/MN of DSD and FSD have no objection to or no adverse comment on the application.
- 11.3 Regarding the Interim Criteria, the footprint of the proposed Small House falls entirely within the ‘VE’ of Tai Kong Po (**Plan A-2a**). According to DLO/YL of LandsD, the number of outstanding Small House applications for Tai Kong Po is 9 while the 10-year Small House demand forecast is 10. Whilst a “V” zone at the nearby Cheung Kong Tsuen has been drawn up on the OZP (**Plan A-1**) to serve Cheung Kong Tsuen and Tai Kong Po, DLO/YL of LandsD advises that as Tai

Kong Po is a post-1898 recognised village and under existing Small House policy, cross-village Small House application from a Tai Kong Po villager would not be considered and Tai Kong Po villagers can only build their Small Houses within the 'VE' of Tai Kong Po. In this regard, the application meets the Interim Criteria as the Site is located entirely within the 'VE' of Tai Kong Po and there is no "V" zone for Tai Kong Po to meet the outstanding Small House applications and 10-year Small House demand forecast, which is estimated to be 19 in total (about 0.475ha) according to DLO/YL of LandsD. Besides, DLO/YL of LandsD has no adverse comment on the application. In light of the above, sympathetic consideration could be given to the application according to the Interim Criteria.

- 11.4 There are 22 similar applications within the 'VE' of Tai Kong Po in the vicinity of the Site approved between January 2005 and March 2023. The planning circumstances of the two rejected similar applications, in which insufficient justification regarding land availability for the proposed Small Houses; and cross-village Small House application were involved, are different from the current application. Approving the current application is in line with the Committee's previous decisions.
- 11.5 Regarding the public comment as stated in paragraph 10 above, the departmental comments and planning assessments 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 comment in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 22.9.2027, 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 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**.

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

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. 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.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for the rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 26.7.2023
Appendix Ia	FI received on 18.9.2023
Appendix II	Extract of relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar applications
Appendix IV	Detailed comments of relevant government departments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plans A-2a and A-2b	Site plans
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**