

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/321

- Applicant** : Mr. Lai Shi Tak represented by Ken Chiu & Co., Solicitors
- Site** : Lot 1281 S.B ss.2 in D.D. 114, Sheung Tsuen, Pat Heung, Yuen Long, New Territories
- Site Area** : 103 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Village Type Development” (“V”) (about 56.12 m², 55%) and
“Agriculture” (“AGR”) (about 46.85 m², 45%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Sheung Tsuen, Pat Heung¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) near Sheung Tsuen, Pat Heung, Yuen Long. The Site falls within an area partly zoned “V” (about 55%) and partly zoned “AGR” (about 45%) on the approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted within the “V” zone, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ use is a Column 2 use within the “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant and occupied by an abandoned temporary structure (**Plans A-2 and A-4**).

1.2 Details of the proposed NTEH (Small House) are as follows:

Covered Area	: 65.03 m ²
Total Domestic Floor Area	: 195.09 m ²
No. of Storeys	: 3
Building Height	: 8.23 m

¹ District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD) advises that the applicant is eligible for Small House Grant.

- 1.3 The uncovered area of the Site is proposed to be used as garden. The layout of the proposed Small House development with septic tank is shown on **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted an Application Form with attachments received on 12.11.2021 (**Appendix I**).

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**. They are briefly summarised as follows:

- (a) the proposed Small House development would not cause environmental impacts to the surrounding areas; and
- (b) the applicant propose to improve the overall visual and landscape value of the Site by adding landscaping features at the uncovered area within the site.

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

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

4. **Assessment Criteria**

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

5. **Background**

The Site is not subject to any active enforcement action.

6. **Previous Application**

There is no previous application in respect of the Site.

7. **Similar Applications**

- 7.1 There is one similar application (Application No. A/YL-SK/265) for Small House development within the same “AGR” Zone but straddling a different “V” zone (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. It was rejected by the Board on 1.11.2019 mainly for the reasons that it was not in line with the planning intention of the “AGR” zone; it did not comply with the Interim Criteria; and land was still available within the adjacent “V” zones. Details of the application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

8. **The Site and Its Surrounding Areas** (Plans A-1 to A-3 and site photos on Plan A-4)

8.1 The Site is:

- (a) currently vacant and occupied by an abandoned temporary structure;
- (b) not within approved 'VE' of any recognised village; and
- (c) accessible via a local access road/track connecting to Kam Sheung Road.

8.2 The surrounding areas are predominantly rural in nature intermixed with domestic dwellings/structures, active/fallow agricultural land, vacant/unused land and vehicle repair workshop, shop and services:

- (a) to the west and northwest are mainly domestic dwellings/structures within the "V" zone; to the further northwest is a temporary shop and services approved under Application No. A/YL-SK/298;
- (b) to the east and south are areas under "AGR" zone mainly occupied by fallow/active agricultural land and vacant/unused land; and
- (c) to the northeast are a vehicle repair workshop, vehicle shop/services and a domestic structure.

9. **Planning Intentions**

9.1 The planning intention of the "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9.2 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.

10. **Planning Assessments and Comments from Relevant Government Departments**

10.1 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	55%		- The remaining portion of the Site and the Small House footprint fall within the "AGR" zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- Footprint of the proposed Small House	57%		
2.	Within 'VE'? - The Site - Footprint of the proposed Small House		100% 100%	- The Site falls entirely outside the 'VE' of Sheung Tsuen.
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 Small House demand in Sheung Tsuen: about 39 ha (equivalent to about 1,559 Small House sites). The outstanding Small House applications are 159 ² while the 10-year Small House demand forecast is 1400. <u>Land available</u> - Land available to meet the Small House demand within the three "V" zones of the village concerned: about 23 ha (equivalent to about 923 Small House sites) (Plan A-2b).
	Sufficient land in "V" zone to meet outstanding Small House application?	✓		
4.	Compatible with the planning intention of "AGR" zone?		✓	- The "AGR" zone is intended to retain and safeguard good quality agricultural land for agricultural purposes. - Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural point of view since the agricultural activities are active in the vicinity and agricultural infrastructure such as road access and water source are available on site. The Site has potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in nature with village houses, active/fallow agricultural land, vacant/unused land and vehicle repair workshop, shop and services.

² Among the 159 outstanding Small House applications, 156 of them fall within the three "V" zones divided by Kam Sheung Road, and 3 straddle a "V" zone and an "AGR" zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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)?		✓	- The Director of Fire Services (D of FS) has no objection in principle to the application. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the LandsD.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no adverse comment on the planning application from traffic engineering perspective.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection in principle from the public drainage point of view. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application would unlikely cause major pollution.
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD) has no objection to the application from the landscape planning perspective as adverse impact on existing landscape resources arising from the proposed development is not anticipated.
13.	Local objections conveyed by DO(YL)?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Their other detailed comments, if any, are at **Appendix IV**.

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

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

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

11. Public Comments Received During Statutory Publication Period (Appendix V)

On 19.11.2021, the application was published for public inspection. During the statutory public inspection period, 17 public comments were received from Kadoorie Farm & Botanic Garden Corporation, indigenous inhabitants of Sheung Tsuen and individuals mainly on the grounds of being not in line with the planning intention of the “AGR” zone; land is still available within “V” zone of Sheung Tsuen for Small House development; and Small House development should be concentrated within the existing “V” zone to avoid piecemeal development and destroy the tranquil nature of the rural area.

12. Planning Considerations and Assessments

12.1 The application is for a proposed NTEH (Small House) at the Site falling partly within the “V” zone (about 55%) and partly within the “AGR” zone (about 45%) in 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 also 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 development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as water source and road access are available; and the Site possesses potential for agricultural rehabilitation.

12.2 According to the DLO/YL, LandsD’s records, the total number of outstanding Small House applications for Sheung Tsuen is 159 while the 10-year Small House

demand forecast is 1400. Based on the latest estimate by the Planning Department, about 23.08ha of land (or equivalent to about 923 Small House sites) is available within the “V” zone of Sheung Tsuen (**Plan A-2b**). As more than 50% of the footprint of the proposed Small House falls within the “V” zone that encircles the ‘VE’ of Sheung Tsuen, DLO/YL, LandsD will consider further processing the Small House application should the application be approved by the Board.

- 12.3 The Site, located at the southern fringe of Sheung Tsuen, is partly vacant and partly covered with weeds and self-seeded vegetation (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character comprising village houses, temporary structures, scattered tree groups and vacant lands (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. Other relevant Government departments including C for T, CE/CM of DSD, CHE/NTW of HyD, PM/W of CEDD and D of FS have no objection to or no adverse comment on the application.
- 12.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House site falls within the “V” zone of Sheung Tsuen. While land available within “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 1,559 houses, such available land (about 23ha or equivalent to about 923 Small House sites) is capable to meet the 159 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 12.5 One similar application (No. A/YL-SK/265) straddling the same “AGR” zone and adjoining “V” zone (**Plan A-1**) was rejected by the Committee in 2019 mainly on the considerations as stated in paragraph 7 above. The Committee’s considerations of this similar application are generally applicable to the current application; and rejection of the current application is generally in line with the Committee’s previous decision.
- 12.6 Regarding the public comments raising objection to the application as mentioned in paragraph 11, Government departments’ comments and the planning assessments in above paragraphs are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
 - (a) the proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality

agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and

- (b) land is still available within the adjacent “V” zones of Sheung Tsuen which are primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 24.12.2025, 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. Decisions Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.

15. Attachments

Appendix I	Application form with attachments received on 12.11.2021
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories (NTEH)/Small House in New Territories
Appendix III	Similar Application(s)
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments

Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated amount of land available for Small House development within the “V” zone
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
DECEMBER 2021**