

RNTPC Paper No. A/YL-KTN/589  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 16.3.2018

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

**APPLICATION NO. A/YL-KTN/589**

- Applicant** : Mr. WONG Sze Kai represented by Chief Force Limited
- Site** : Lot 948 S.A ss. 11 RP in D.D. 109, Tai Kong Po Tsuen, Kam Tin, Yuen Long
- Site Area** : About 174 m<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
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

- 1.1 The applicant sought 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 Tai Kong Po Tsuen<sup>1</sup>, which is post 1898 recognized village. 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 not the subject of any previous application.
- 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

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<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.

1.3 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, section plan cum fire service installations proposal and emergency vehicular access (EVA) plan as submitted by the applicant are in **Drawings A1 to A3**.

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

- (a) Application form with plans and planning statement (**Appendix I**) received on 29.1.2018

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

The justifications put forth by the applicant in support of the application are detailed in the planning statement at **Appendix I**. They can be summarized as follows:

- (a) According to Lands Department's information promulgated in 2009, Tai Kong Po Tsuen is a recognised village in Yuen Long and is entitled for building NTEH. The applicant is an indigenous villager of Tai Kong Po Tsuen. The Site is situated within the village 'environ' ("VE").
- (b) The applicant resides in Tai Kong Po Tsuen and the Site is the only land owned by the applicant.
- (c) The Site is located within the village cluster and served with good drainage facilities. An existing EVA which satisfied Fire Services Department's requirement on width and headroom, as well as a fire pedestal is found near the Site. Suitable fire service installations (FSIs) will be provided in the proposed Small House. Landscaping will be provided within the Site if necessary.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicants is the sole "current land owner" of the respective lot. 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 any active enforcement case.

## 6. Previous Application

The Site is not the subject of any previous application.

## 7. Similar Applications

- 7.1 There are 21 similar applications (No. 217, 228, 257, 269, 296 to 298, 310, 358 to 361, 387, 396, 460, 467, 471, 477, 530, 555 and 576) for Small House development within the same “AGR” zone and the ‘VE’ of Tai Kong Po Tsuen 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 19 applications (No. A/YL-KTN/217, 257, 269, 296 to 298, 310, 358 to 361, 396, 460, 467, 471, 477, 530, 555 and 576) were approved by the Committee on 28.1.2005, 29.9.2006, 2.2.2007, 23.5.2008, 6.6.2008 (for Applications No. A/YL-KTN/297 and 298), 19.9.2008, 6.5.2011 (for Applications No. A/YL-KTN/358 to 361), 23.11.2012, 6.2.2015, 17.7.2015, 7.8.2015, 18.9.2015, 29.7.2016, 7.4.2017 and 27.10.2017 respectively on similar considerations that the developments fell within the ‘VE’ of Tai Kong Po and cross-village Small House applications for the villagers of Tai Kong Po would not be considered by the District Lands Officer/Yuen Long, Lands Department (DLO/YL). The proposed developments were not incompatible with the surrounding village houses. There was no adverse comment from the relevant departments including the Director of Agriculture, Fisheries and Conservation (DAFC) (all except Applications No. A/YL-KTN/217, 297, 298 and 460). Though DAFC did not favour applications No. A/YL-KTN/217, 297, 298 and 460 as the 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 small scale NTEHs were considered compatible with the surrounding village settlement of Tai Kong Po. Applications No. A/YL-KTN/217 and 257 involved previous planning approvals before promulgation of the Interim Criteria mentioned in paragraph 4 above (A/YL-KTN/217) and a site with building status under the lease (A/YL-KTN/257) respectively.
- 7.3 Application No. A/YL-KTN/228 for proposed four NTEHs/Small Houses was rejected by the Committee on 24.6.2005 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone, no strong justification was given for a departure from the planning intention; and the development did not meet the interim criteria for assessing planning applications for NTEH/Small House development in that the application site fell outside the “Village Type Development” (“V”) zone and there was no information to demonstrate why suitable sites within the areas zoned “V” could not be made available for the proposed development. The subject site was subsequently approved with conditions for Small Houses development by the Committee on 6.5.2011 under Applications No. A/YL-KTN/358 to 361 (**Plan A-1** and paragraph 7.2 above refer).
- 7.4 Application No. A/YL-KTN/387 for an NTEH/Small House was rejected by the Committee on 10.8.2012 on similar grounds as those set out in paragraph 7.3 above, adding that the applicant was from Ho Pui Tsuen but the applicant has not demonstrate why suitable sites in Pat Heung area zoned “V” cannot be made available

for the proposed development.

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

8.1 The Site is:

- (a) currently vacant, paved and fenced off with a single storey temporary structure for storage use (**Plans A-4a and A-4b**);
- (b) located within the “VE” of Tai Kong Po and within village cluster of Tai Kong Po; and
- (c) abutting to Kong Tai Road (**Plan A-2**).

8.2 The surrounding areas are predominately rural in character and surrounded by residential dwellings/structures/village houses, open storages/storage yards, vacant/unused land and parking of vehicles (**Plans A-1 and A-2**):

- (a) to its immediate east are residential dwellings/structures and vacant/unused land;
- (b) to the immediate south is a site under planning application (No. A/YL-KTN/460) for proposed NTEH/Small Houses approved with conditions by the Committee on 6.2.2015 (**Plan A-1**). Open storages/storage yards and parking of vehicles are located to the further south and southwest of the Site which are suspected unauthorized development subject to action by the Planning Authority;
- (c) to its west across the Kong Tai Road are residential dwellings/structures including a site under planning application (No. A/YL-KTN/296) for two NTEHs/Small Houses approved with conditions by the Committee on 23.5.2008 (**Plan A-1**). To the further northwest is a site for electric power radio control car track which is a suspected unauthorized development subject to action by the Planning Authority; and
- (d) to its immediate north is a pond and unused land. To the further north are residential dwellings/structures and vacant land.

## **9. Planning Intention**

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 application meets the assessment criteria for NTEH/Small House development as there is currently no “V” zone covering Tai Kong Po Tsuen and the Site falls within the ‘VE’ of Tai Kong Po Tsuen. 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 NTEH/Small House	--	✓ 100%	Currently there is no “V” zone covering Tai Kong Po but only the “V” zone covering Cheung Kong Tsuen to the southwest of the Site ( <b>Plan A-1</b> ) -
2.	Within ‘VE’? - Application site  - Footprint of the NTEH/Small House -	✓ 100%	--	According to the information provided by DLO/YL, LandsD, the Site falls entirely within the ‘VE’ of Tai Kong Po (a post-1898 recognized village).
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?	--	✓	- Although there is a “V” zone covering the nearby Cheung Kong Tsuen, DLO/YL of LandsD advises that Tai Kong Po is a post-1898 recognized village. Under the existing Small House policy, Small House application from a villager of a post-1898 recognized village to build a small house in another village other than his own village, in general, will not be considered.  - The number of outstanding Small House applications of Tai Kong Po (as at 22.2.2018) is 9.  - The 10-year (2018-2027) forecast of Small House demand for Tai Kong Po is 10 <sup>2</sup> .

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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<ul style="list-style-type: none"> <li>- Land required to meet the Small House demand in Tai Kong Po Tsuen: about 0.475ha (equivalent to 19 Small House sites)</li> <li>- No “V” zone to meet Small House demand.</li> </ul>
4.	Compatible with the planning intention of “AGR” zone?	--	✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agriculture point of view as the Site possess high potential for agricultural rehabilitation such as greenhouse cultivation or plant nursery.
5.	Compatible with surrounding area/ development?	✓	--	The surrounding areas are predominately rural in character and within a cluster of village houses.
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 particular 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); and
- (j) Director of Fire Services (D of FS).

10.3 The following departments have no comment on the application:

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) 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 6.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.2.2018, four public comments were received from four individuals (**Appendices V-1 to V-4**).
- 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; Tai Kong Po is the one of the most agricultural developed area in Yuen Long; agricultural land should be preserved to tally with government policy; the approval of the proposed development would set undesirable precedents of encouraging encroachment on “AGR” zone; there was a rejected Small House application in Tai Kong Po; the applicant is not an indigenous villager; the proposed development would cause adverse traffic impacts and degradation of the nearby fish pond; potential overflow of sewage during heavy rain; the government should investigate any illegal Small Houses development and any breaches of lease and/or the Town Planning Ordinance.

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

- 12.1 The Site falls entirely within “AGR” zone (**Plan A-1**). 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. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation such as greenhouse cultivation or plant

nursery. However, it is noted that the Site is located within the village cluster of Tai Kong Po and adjacent to Kong Tai Road which is the main vehicular access of the village (**Plans A-2, A-3 and A-4a**). The proposed Small House development is not incompatible with the surrounding land uses, which are predominantly rural in character and surrounded by residential dwellings/structures/village houses. It is not anticipated that the proposed development would have significant adverse traffic, drainage, environmental and landscape impacts on the surrounding area. Concerned government departments including CTP/UD&L of PlanD, C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on or objection to the application. Requirements of the DLO/YL of LandsD and CTP/UD&L of PlanD will be included in approval conditions in paragraph 13.2 (a) and (b) below.

- 12.2 Since the first OZP for Kam Tin North, a “V” zone at Cheung Kong Tsuen to the southwest of the Site had been designated to serve both Cheung Kong Tsuen and Tai Kong Po villages<sup>3</sup> (**Plan A-1**). However, according to the prevailing Small House policy as advised by DLO/YL of LandsD, the villagers of Tai Kong Po can only apply Small Houses within the ‘VE’ of Tai Kong Po. In this regard, the Site falls within the ‘VE’ of Tai Kong Po and the subject application meets the Interim Criteria as the Site is located entirely within the ‘VE’ and there is no “V” zone for Tai Kong Po to meet the outstanding applications and 10-year demand for Small Houses of Tai Kong Po, which is estimated to be 19 in total according to DLO/YL of LandsD (requiring land of about 0.475 ha). 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.
- 12.3 19 similar applications for Small House development (paragraph 7.2 above) within the ‘VE’ of Tai Kong Po (**Plan A-1**) have been approved by the Committee<sup>4</sup> between 2005 and 2017, including 2 applications No. A/YL-KTN/296 and 460 located to the south and west of the Site (**Plan A-1**). Approval of the current application would be in line with the Committee’s decisions on similar applications in Tai Kong Po taking into account there is no “V” zone covering Tai Kong Po Tsuen, DLO/YL of LandsD advised that Tai Kong Po is a post-1898 recognized village and Small House applications of Tai Kong Po must be processed within the ‘VE’ of Tai Kong Po Tsuen currently zoned “AGR”.
- 12.4 Four public comments objecting to the application were received as mentioned in paragraph 11 above. In this regard, C for T has no adverse comment on the application. The applicant will be advised to take appropriate measures to avoid interfering or polluting the nearby pond as recommended by DAFC. Also, relevant governments’ comments and planning assessment as stated above are relevant.

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<sup>3</sup> In the first Kam Tin North OZP No. S/YL-KTN/1 gazetted in 1994, the ‘VE’ boundaries of the two recognized villages of Tai Kong Po and Cheung Kong Tsuen were not available. A “V” zone was designated at Cheung Kong Tsuen to meet the Small House demand of both villages, taken into account Cheung Kong Tsuen being relatively more accessible from major roads.

<sup>4</sup> For similar applications, only approved cases after the first promulgation of the Interim Criteria in November 2000 were included.

### **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 has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 16.3.2022, 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 the landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

- 13.3 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 to retain and safeguard good agricultural land for agricultural purpose. It is also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from such planning intention.

### **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**

**Appendix I**                      Application Form received on 29.1.2018

<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 the same “AGR” zone on the OZP
<b>Appendix IV</b>	Detailed comments from relevant Government departments
<b>Appendices V-1 to V-4</b>	Public comments received during the statutory publication period
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Site Emergency Vehicular Access Plan
<b>Drawing A-3</b>	Section Plan cum Fire Service Installations Proposal
<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>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2018**