

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

**APPLICATION NO. A/YL-SK/265**

<b><u>Applicant</u></b>	: Mr. LEE Tik Long
<b><u>Site</u></b>	: Lot 1177 S.B in D.D.112, Shek Kong, Yuen Long
<b><u>Site Area</u></b>	: About 260m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<b><u>Zonings</u></b>	: “Agriculture” (“AGR”) (about 171m <sup>2</sup> , 66%) and “Village Type Development” (“V”) (about 89m <sup>2</sup> , 34%)
<b><u>Application</u></b>	: Proposed House (New Territories Exempted House – Small House)

**1. The Proposal**

1.1 The applicant seeks planning permission to build a house (New Territories Exempted House (NTEH) – Small House) on the application site (the Site) in Ngau Keng, Shek Kong, Yuen Long. As indicated by the applicant, he is an indigenous villager of Ngau Keng<sup>1</sup>. According to the Notes of the OZP, the development of NTEH within “V” zone is always permitted, but it requires planning permission from the Town Planning Board (the Board) within the “AGR” zone. The Site is currently vacant and covered with grass (**Plans A-2a and A-4**).

1.2 The layout of the proposed house is at **Drawing A-1** and the major development parameters are as follows:

Covered Area	: 65.03 m <sup>2</sup>
Total Gross Floor Area	: 195.09 m <sup>2</sup>
Number of Storeys	: 3
Building Height	: 8.23m

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<sup>1</sup> As advised by the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD), the indigenous villager’s status and eligibility of the applicant have not yet been verified.

1.3 In support of the application, the applicant has submitted an application form with attachments (**Appendix I**) which was received on 13.9.2019.

**2. Justification from the Applicant**

As stated in Part 8 of **Appendix I**, the applicant puts forth that under the New Territories Small House Policy, the applicant would apply for a Small House at the Site for personal use.

**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 latest set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria), which was promulgated on 7.9.2007, is at **Appendix II**.

**5. Background**

The Site is currently not subject to any outstanding enforcement case.

**6. Previous Application**

There is no previous application at the Site.

**7. Similar Application**

7.1 There is one similar application for proposed house (NTEH – Small House) (Application No. A/YL-SK/200), which mainly falls within the “AGR” zone (99.8%) with minor encroachment onto the same “V” zone (0.2%) on the OZP. It was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 23.5.2014 mainly on the grounds that:

- (a) the proposed Small House 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 application does not comply with the Interim Criteria in that the site and the proposed NTEH/Small House footprint fall entirely outside the village 'environs' ('VE') and majority of the site is located outside the "V" zone. Village house development should be sited close to the village proper as far as possible to maintain an orderly development pattern, efficient use of land and provision of infrastructure and services. Besides, the proposed development would set an undesirable precedent for other similar applications, resulting in piecemeal development and destroying the tranquil nature of the rural area. There is no exceptional circumstance to justify approval of the application.

7.2 Details of the application are at **Appendix III** and its location is shown on **Plan A-1**.

## **8. The Site and Its Surrounding Area (Plans A-1 to A-4)**

8.1 The Site is:

- (a) currently vacant and covered with grass;
- (b) not within any approved 'VE' of recognized village; and
- (c) accessible via village tracks branching from Kam Sheung Road.

8.2 The surrounding areas are predominantly rural in character intermixed with residential dwellings/structures, fallow agricultural land and vacant/unused land:

- (a) to its south, southwest and further northwest are mainly residential dwellings/structures (with the nearest one about 15m to its south); and
- (b) to its other sides are mainly fallow agricultural land and vacant/unused land.

## **9. Planning Intention**

9.1 The planning intention of "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.

9.2 The planning intention of "V" zone is primarily 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 the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the "V" zone for a more orderly development pattern, and 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 the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

## 10. 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?  - Footprint of the proposed Small House  - Application site	12.67%  34.04%		- Less than 50% of the Site and footprint of the proposed Small House fall within “V” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - Application site		100%  100%	- DLO/YL of LandsD has advised that the Site does not fall within any approved Village Environs Boundary (VEB) of recognized village. Up to this moment, there is no approved VEB for Ngau Keng.
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 Small House demand in Ngau Keng, Lin Fa Tei, Shui Lau Tin and Shui Tsan Tin (the Villages): about 35.5 ha (equivalent to about 1,420 Small House sites). The outstanding Small House applications for the Villages are 185, while the 10-year Small House demand forecast for the Villages is about 1,235 <sup>1</sup> .
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		- Land available to meet the Small House demand within the “V” zone of the Villages: about 28 ha (equivalent to about 1,120 Small House sites) ( <b>Plan A-2b</b> ).

<sup>1</sup> The figure was provided by the Indigenous Inhabitant Representative of the Villages, and DLO/YL of LandsD is unable to verify such information.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	In line 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 high potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character intermixed with residential dwellings/structures, fallow agricultural land and vacant/unused land.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of FSIs and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no specific comment on the application. The applicant is advised to observe “NTEHs – A Guide to Fire Safety Requirements” published by LandsD.
9.	Local objections received?	✓		- District Officer/Yuen Long, Home Affairs Department (DO/YL of HAD) has not received any comments from locals upon close of consultation and he has no particular comments on the application. - Public comments received during the statutory publication period are set out in paragraph 11 below.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 paragraph 10.1 above. Their other detailed comments, if any, are at **Appendix IV**.

- (a) DLO/YL of LandsD;
- (b) DAFC;
- (c) Director of Environmental Protection (DEP);
- (d) Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C of WSD);
- (f) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD);
- (g) Commissioner for Transport (C for T);
- (h) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW of HyD);
- (i) D of FS; and
- (j) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD).

10.3 The following Government departments have no comment on the application:

- (a) DO/YL of HAD;
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W of CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Service (DEMS).

## **11. Public Comments Received During Statutory Publication Period**

On 20.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 11.10.2019, a total of five public comments were received from Kadoorie Farm & Botanic Garden Cooperation, World Wide Fund for Nature Hong Kong, Designing Hong Kong, The Hong Kong Bird Watching Society and a member of public (**Appendices Va to Ve**). All of them object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; approval of the application will set an undesirable precedent for similar applications and the cumulative effect would result in degradation of the rural environment; and land is still available within the “V” zone.

## 12. Planning Considerations and Assessments

- 12.1 The application is for one proposed house (NTEH – Small House) at the Site zoned “AGR” (about 171m<sup>2</sup>, 66%) and “V” (about 89m<sup>2</sup>, 34%). 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. 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 the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the zone for a more orderly development pattern, and efficient use of land and provision of infrastructures and services. While the proposed Small House is always permitted within “V” zone, it is not in line with the planning intention of “AGR” zone. There is no strong planning justification given in the submission for a departure from the planning intention.
- 12.2 According to DLO/YL, LandsD, the total number of outstanding Small House applications of Ngau Keng, Lin Fa Tei, Shui Lau Tin and Shui Tsan Tin (the Villages) is 185 (i.e. equivalent to 4.63 ha). As provided by the indigenous inhabitant representatives of the Villages, the 10-year Small House demand forecast for the Villages is about 1,235 (i.e. equivalent to 30.88 ha). While land available within the “V” zone (about 28 ha or equivalent to 1,120 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 1,420 Small Houses, such available land is capable of meeting the 185 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 developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. The applicant has failed to demonstrate why the proposed Small House is required to be built beyond the “V” zone.
- 12.3 The application does not comply with the Interim Criteria in that the entire Site and footprint of the proposed Small House do not fall within any approved ‘VE’ of recognized village, and about 87% of the footprint of the proposed Small House is located outside the “V” zone. According to the Interim Criteria, 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 except under very exceptional circumstances. There is no exceptional circumstance to justify approval of the application.
- 12.4 About 66% of the Site falls within “AGR” zone. 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 high potential for agricultural rehabilitation. The other concerned Government departments including C for T, CE/MN of DSD and D of FS have no adverse comment on or no objection to the application.

- 12.5 One similar application (No. A/YL-SK/200) straddling the same “V” zone and adjoining “AGR” zone (**Plan A-1**) was rejected by the Committee in 2014 mainly on the grounds that the proposed Small House development was not in line with the planning intention of the “AGR” zone, and the application did not comply with the Interim Criteria in that the site and the proposed NTEH/Small House footprint fell entirely outside the ‘VE’ and majority of the site was located outside the “V” zone. The planning circumstances of this rejected application are similar to those of the current application. Approval of this application would set an undesirable precedent for other similar applications, resulting in piecemeal development and destroying the tranquil nature of the rural area.
- 12.6 Regarding the five public comments received during the statutory publication period which object to the application as stated in paragraph 11 above, the departmental comments and planning considerations and assessments as stated in paragraphs 12.1 to 12.4 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 mentioned in paragraph 11, Planning Department does not support the application for the following reasons:
- (a) the proposed Small House 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;
  - (b) the application does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the Site and the footprint of the proposed Small House fall entirely outside any approved ‘VE’ of recognized village, and majority of the Site and the Small House footprint fall outside “V” zone. Land is still available within the “V” zone of Ngau Keng, Lin Fa Tei, Shui Lau Tin and Shui Tsan Tin, where land is primarily intended for Small House development. 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, and efficient use of land and provision of infrastructure and services; and
  - (c) the proposed development would set an undesirable precedent for other similar applications, resulting in piecemeal development and destroying the tranquil nature of the rural area. There is no exceptional circumstance to



justify approval of the application.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 1.11.2023, 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 at **Appendix VI**.

**14. Decision Sought**

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

**15. Attachments**

<b>Appendix I</b>	Application form with attachments received on 13.9.2019
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar Application
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendices Va to Ve</b>	Public Comments
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<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

**Plan A-3**  
**Plan A-4**

Aerial Photo  
Site Photos

**PLANNING DEPARTMENT**  
**NOVEMBER 2019**