

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-TK/643 to 646

<u>Applicants</u>	Mr. WONG Wing Him	(Application No. A/NE-TK/643)
	Mr. WONG Pui Yip	(Application No. A/NE-TK/644)
	Mr. WONG Yuen Keung	(Application No. A/NE-TK/645)
	Mr. LI Jurvin	(Application No. A/NE-TK/646)

All represented by Mr. YIP Fook Wah, Raymond

<u>Sites</u>	Lots 1028 S.B ss.5, 1034 S.A ss.2 S.C and 1034 S.B ss.5	(Application No. A/NE-TK/643)
	Lots 1028 S.B RP, 1034 S.A RP, 1034 S.A ss.2 RP and 1034 S.B RP	(Application No. A/NE-TK/644)
	Lot 1034 S.A ss.1	(Application No. A/NE-TK/645)
	Lots 1034 S.A ss.2 S.B and 1034 S.B ss.4	(Application No. A/NE-TK/646)

All in D.D. 23, Po Sam Pai, Tai Po, New Territories

<u>Site Areas</u>	About 116.6m ²	(Application No. A/NE-TK/643)
	About 112.6m ²	(Application No. A/NE-TK/644)
	About 97.9m ²	(Application No. A/NE-TK/645)
	About 115.9m ²	(Application No. A/NE-TK/646)

Lease Block Government Lease (demised for agricultural use)

Plan Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19

<u>Zonings</u>	<u>“Village Type Development” (“V”)</u>	<u>“Agriculture” (“AGR”)</u>	
	47%	53%	(Application No. A/NE-TK/643)
	66%	34%	(Application No. A/NE-TK/644)
	60%	40%	(Application No. A/NE-TK/645)
	51%	49%	(Application No. A/NE-TK/646)

Applications Proposed House (New Territories Exempted House (NTEH) - Small House) at each of the application sites

1. The Proposals

1.1 The applicants, who claim themselves as indigenous villagers of Tai Po Kam Chuk Pai San Tsuen/ Shuen Wan Sha Lan ¹, seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted within the “V” zone, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the proposed Small Houses are as follows:

Total floor area	:	195.09m ²
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

1.3 Layout plan of each of the proposed Small Houses (including septic tank) is shown on **Drawings A-1 to A-4**. The uncovered area of each of the Sites are proposed for garden use.

1.4 There is no previous application involving the Sites of applications No. A/NE-TK/643, 644 and 646. For the Site of application No. A/NE-TK/645, it is the subject of a previous application No. A/NE-TK/617 submitted by the same applicant for the same proposed development which was rejected by the Rural and New Town Planning Committee (the Committee) on 28.7.2017.

1.5 In support of the applications, the applicants submitted the following documents:

- (a) application forms with attachments **(Appendices Ia to 1d)**
- (b) further information received on 24.9.2018 and 26.9.2018, clarifying latest condition of the trees located on the Sites **(Appendix Ie)**

1.6 On 3.8.2018, the Committee agreed to the applicants’ request to defer making a decision on the applications for two months so as to allow time for preparation of further information to address the comments of relevant Government departments and public comments. The applicants submitted further information on 24.9.2018 and 26.9.2018. The applications are re-scheduled for consideration by the Committee on 16.11.2018.

¹ The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicants’ eligibilities of Small House grants have yet to be ascertained.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of the application forms at **Appendices Ia to Id**. They can be summarized as follows:

- (a) the applicants are indigenous villagers of Tai Po Kam Chuk Pai San Tsuen and the village is no more in existence due to Plover Cove government project. They are entitled for Small House grants under the current Small House Policy;
- (b) when the applicants purchased the Sites, they were already uncultivated;
- (c) there are approved applications for Small House development along the boundary of “V” and “AGR” zones to form a small new cluster of Small Houses. The Sites would be the last and maximum extent of Small House development along the fringe of the “V” zone. Hence, it is unlikely that approval of the applications would set undesirable precedent;
- (d) the proposed developments will not frustrate the planning intention of the “AGR” zone as over 50% of the footprints of the proposed Small Houses are within “V” zone;
- (e) the Sites are vacant and flat without any retaining structure or slope nearby. There is no vegetation or plants on site; and
- (f) the applications are in compliance with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories.

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

The applicants are the sole “current land owners” of the Sites. 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 had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGGs), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

5. Previous Application

- 5.1 There is no previous application involving the Sites of applications No. A/NE-TK/643, 644 and 646.
- 5.2 The Site of application No. A/NE-TK/645 is the subject of a previous application No. A/NE-TK/617 submitted by the same applicant for the same use which was rejected by the Committee on 28.7.2017 mainly on the considerations of being not in line with the planning intention of the “AGR” zone; and land was still available within the concerned “V” zone. Compared with the previous application, major development parameters of the proposed Small House under the current application No. A/NE-TK/645 are the same.
- 5.3 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 16 similar applications (No. A/NE-TK/150, 156, 282, 302, 342, 364, 371, 377, 378, 381, 460, 461, 503, 590, 633 and 642) for Small House development within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**). Among which, 12 of them were approved and four were rejected.
- 6.2 Ten similar applications (No. A/NE-TK/156, 282, 302, 342, 377, 378, 381, 460, 461 and 503) were approved with conditions by the Committee between 2003 and 2014 before a more cautious approach in approving Small House applications was adopted by the Board in August 2015, mainly on the consideration of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘V’ zone and there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned villages at the time of consideration. After that, two applications (No. A/NE-TK/633 and 642) were approved in 2018 mainly on sympathetic consideration as previous planning permission had been granted to the same applicants.
- 6.3 Four similar applications (No. A/NE-TK/150, 364, 371 and 590) were rejected by the Committee between 2003 and 2017 mainly on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; it did not comply with the Interim Criteria in that more than 50% of the Small House footprint was outside the “V” zone and the ‘VE’ of any recognized villages; and/or approval of the application would set an undesirable precedent for other similar applications in the area. Application No. A/NE-TK/590 was also rejected as land was still available within the “V” zone of Po Sam Pai and San Tau Kok which is primarily intended for Small House development.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.

7. The Sites and Their Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3 and A-4)

7.1 The Sites are:

- (a) vacant and hard paved;
- (b) outside the ‘VE’ of Po Sam Pai and San Tau Kok; and
- (c) accessible by footpath and local track leading to Ting Kok Road in the south.

7.2 The surrounding areas are predominantly rural in character comprising of scattered tree groups, abandoned farmland and village houses. Clusters of village houses within the “V” zone are located on the south-east of the Sites. A stream is about 30m – 50m to the west of the Sites.

8. Planning Intentions

8.1 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 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.

8.2 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.

9. Comments from Relevant Government Departments

9.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprints of the Small Houses A/NE-TK/643 A/NE-TK/644 A/NE-TK/645 A/NE-TK/646	 60% 72% 71% 68%	 40% 28% 29% 32%	- The remaining portions of the Sites and footprints of the proposed Small Houses fall within “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- Application sites A/NE-TK/643 A/NE-TK/644 A/NE-TK/645 A/NE-TK/646	47% 66% 60% 51%	53% 34% 40% 49%	
2.	Within 'VE'? - Footprints of the Small Houses - Application sites	- -	100% 100%	- The Sites and footprints of the proposed Small Houses fall entirely outside the 'VE' of Po Sam Pai and San Tau Kok. - District Lands Officer/ Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the applications as more than 50% of the footprints of the proposed Small Houses are within "V" zone.
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 Po Sam Pai and San Tau Kok: about 7.03 ha (or equivalent to 281 Small House sites). The outstanding Small House applications are 57 ² while the 10-year Small House demand forecast is 224.
	Sufficient land in "V" zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the "V" zone of the villages concerned: about 3.67 ha (or equivalent to about 146 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of "AGR" zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural development point of view as there are active agricultural activities in the vicinity and agricultural infrastructure such as road access and water source is available; and the Sites possess potential for agricultural rehabilitation.

² Among the 57 outstanding Small House application, 43 of them fall within the "V" zone and 14 straddle or outside the "V" zone. For those 14 applications straddling or being outside the "V" zone, 2 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character comprising of scattered tree groups, abandoned farmland and village houses.
6.	Within WGG?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the applications.
9.	Traffic impact?		✓	- Commissioner for Transport (C for T) has no in-principle objection to the applications from traffic engineering point of view.
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required for each of the applications.
11.	Sewerage impact?		✓	- Director of Environmental Protection (DEP) has no objection to the proposed developments.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact? - A/NE-TK/643 and 644 - A/NE-TK/645 and 646		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the planning applications from landscape planning perspective. - since three existing trees within the Sites were severely/ partially damaged by typhoon Mangkhut, emergency felling/ pruning of these trees is anticipated. Adverse impact on landscape resources arising from the proposed developments is not anticipated. - as no existing trees are found within the Sites, adverse impact on landscape resources arising from the proposed developments is not anticipated. - Since footprints of the proposed Small Houses cover most of the Sites, there is inadequate space for landscaping within the Sites. Should the applications be approved, the standard condition for submission and implementation of landscape proposal is not recommended.
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

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

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Chief Engineer/Mainland North, Drainage Services Department;
- (g) Chief Engineer/Consultants Management, Drainage Services Department;

- (h) Chief Engineer/Construction, Water Supplies Department; and
- (i) Director of Fire Services.

9.3 The following Government departments have no objection to/ no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (e) District Officer (Tai Po), Home Affairs Department.

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

On 12.6.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received for applications No. A/NE-TK/643, 644 and 646 while three public comments were received for application No. A/NE-TK/645. Public comments received from Designing Hong Kong and individuals object to the applications mainly on the considerations of being not in line with the planning intention of “AGR” zone; land was still available within the “V” zone; and the undesirability of further use of septic tank.

11. Planning Considerations and Assessments

- 11.1 The Sites are partly zoned “V” (ranging from about 47% to 66%) and partly zoned “AGR” (ranging from about 34% to 53%). The proposed developments are 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the applications from agricultural development point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 These are cross-village Small House applications. According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Po Sam Pai and San Tau Kok is 57 while the 10-year Small House demand forecast for the same villages is 224. Based on the latest estimate by the PlanD, about 3.67 ha (or equivalent to about 146 Small House sites) of land are available within the “V” zone of Po Sam Pai and San Tau Kok. As more than 50% of the proposed Small House footprints fall within the “V” zone, DLO/TP has no objection to the applications.
- 11.3 The Sites are vacant and hard paved. The proposed developments are not incompatible with the surrounding area which is predominantly rural in character comprising of scattered tree groups, abandoned farmland and village houses (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the applications from the landscape planning perspective. For application No. A/NE-TK/643, although two existing trees of *Celtis sinensis* (朴樹) and *Mangifera indica* (杧果) with high amenity value are found within the Site,

they were damaged by typhoon Mangkhut in September 2018 and emergency felling/ pruning are anticipated. Regarding application No. A/NE-TK/644, only one *Macaranga Tanarius* (血桐), a common tree species, is found within the Site. However, it was also severely damaged by typhoon Mangkhut and emergency felling is anticipated. No existing trees are found within the Sites of applications No. A/NE-TK/645 and 646. In this regard, adverse landscape impact arising from the proposed developments is not anticipated.

- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the “V” zone (**Plan A-1**). While land available within the “V” zone for Small House development (about 3.67 ha or equivalent to about 146 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 57 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.
- 11.5 There is no previous application involving the Sites of applications No. A/NE-TK/643, 644 and 646. The Site of application No. A/NE-TK/645 is the subject of a previous application (No. A/NE-TK/617) submitted by the same applicant for the same development which was rejected on 28.7.2017 as it was not in line with the planning intention of the “AGR” zone and land was still available within the concerned “V” zone. Compared with the previously application, the development parameters of the proposed Small House under the current application No. A/NE-TK/645 are the same.
- 11.6 There are seven similar applications (No. A/NE-TK/342, 378, 381, 460, 461, 503 and 642) located in the vicinity of the Sites (**Plan A-2a**). Six of them were approved by the Committee between 2011 and 2013 before a more cautious approach was adopted by the Board, mainly on the considerations of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘V’ zone; and there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned villages at the time of consideration. The remaining application No. A/NE-TK/642 was approved on 15.6.2018 as there was previous planning permission granted to the same applicant.
- 11.7 Regarding the public comments objecting to the applications mainly on the considerations of being not in line with the planning intention of “AGR” zone; land was still available within the “V” zone; and the undesirability of further use of septic tank, the comments from relevant Government departments and planning assessments as mentioned in above paragraphs 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 mentioned in paragraph 10, the Planning Department does not support the applications for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone for the area 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 this planning intention; and
- (b) land is still available within the "V" zone of Po Sam Pai and San Tau Kok which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services.

12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 16.11.2022, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The following conditions of approval and advisory clauses for each of the permissions 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 for each of the permissions are attached at **Appendix VII**.

13. Decision Sought

13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.

13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to each of the permissions, and the date when the validity of the permissions should expire.

13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendices Ia to Id	Application forms and attachments received on 4.6.2018
Appendices Ie	Further Information received on 24.9.2018 and 26.9.2018
Appendix II	Interim Criteria for Consideration of application for NTEH/Small House in New Territories
Appendix III	Previous application (for Application No. A/NE-TK/645)
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawings A-1 to A-4	Layout plans submitted by the applicants
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within “V” zone
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2018**