

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

**APPLICATIONS NO. A/NE-TKL/591 to 594**

<b><u>Applicants</u></b>	: Mr. TSANG Kwok Yin Mr. TSANG Chorp Yin Mr. LAU Woon Shiu Mr. LAM Kowk Kwong all represented by Honest Land Surveys Company	(Application No. A/NE-TKL/591) (Application No. A/NE-TKL/592) (Application No. A/NE-TKL/593) (Application No. A/NE-TKL/594)
<b><u>Sites</u></b>	Lot 658 S.A Lot 658 S.B Lot 658 S.C Lot 658 S.D all in D.D. 82, Lei Uk Tsuen, Ta Kwu Ling, New Territories	(Application No. A/NE-TKL/591) (Application No. A/NE-TKL/592) (Application No. A/NE-TKL/593) (Application No. A/NE-TKL/594)
<b><u>Site Areas</u></b>	: 114.7 m <sup>2</sup> (about) 115.4 m <sup>2</sup> (about) 110.1 m <sup>2</sup> (about) 141.5 m <sup>2</sup> (about)	(Application No. A/NE-TKL/591) (Application No. A/NE-TKL/592) (Application No. A/NE-TKL/593) (Application No. A/NE-TKL/594)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)	
<b><u>Plan</u></b>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14	
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)	
<b><u>Applications</u></b>	: Proposed House (New Territories Exempted House (NTEH) - Small House)	

**1. The Proposals**

- 1.1 The applicants, who claimed to be indigenous villagers<sup>1</sup>, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Lei Uk Tsuen, Ta Kwu Ling (**Plans A-1 and A-2a**). The Sites fall within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of New Territories Exempted House or replacement of existing domestic building by New Territories Exempted House permitted under the covering Notes)’ within “AGR” zone is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).

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<sup>1</sup> The applicants of applications No. A/NE-TKL/591 and 592, A/NE-TKL/593 and A/NE-TKL/594 claimed themselves to be indigenous villagers of Ping Che, Wo Keng Shan and Shan Kai Wat of Ta Kwu Ling Heung respectively. However, the applicants’ eligibility for Small House concessionary grants has yet to be ascertained.

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

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

1.3 The applicants indicate that the uncovered area of the Sites would be used as circulation area for the proposed Small Houses. Layouts of the proposed Small Houses (including septic tanks) under applications No. A/NE-TKL/591 to 594 are shown on **Drawings A-1 to A-4** respectively.

1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia to Id**) which were received by the Board on 8.5.2018.

## **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 in **Appendices Ia to Id**. They can be summarised as follows:

- (a) the applicants are indigenous villagers and entitled for Small House grants under the Small House Policy;
- (b) the Sites fall within the 'Village Environ' ('VE') of Lei Uk Tsuen in Ta Kwu Ling;
- (c) the Sites are the only land parcels owned by the applicants for construction of their own Small Houses; and
- (d) the proposed Small Houses are compatible with the surrounding area and there are similar approved Small House applications in the vicinity.

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

The applicants are the sole "current land owner" of their respective lots. Detailed information would be deposited at the meeting for Members' inspection.

## **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (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. 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 for the Sites.

## 6. Similar Applications

- 6.1 There are 28 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Sites in the Ping Che and Ta Kwu Ling area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 12 applications (No. A/NE-TKL/207, 214, 216, 218, 221, 222, 223, 359, 360, 361, 466 and 493) were approved with conditions by the Rural and New Town Planning Committee (the Committee) between June 2002 and December 2014 (i.e. before the cautious approach being adopted by the Board) mainly on the considerations that the applications generally complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone at the time of consideration; the proposed Small House developments were not incompatible with the surrounding rural and village environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area.
- 6.3 The other 16 applications (No. A/NE-TKL/406, 407, 414, 415, 416, 420, 421, 457, 458, 467, 468, 471, 495, 496, 541 and 551) involving 5 sites were rejected by the Committee or the Board on review or dismissed by the Town Planning Appeal Board Panel (TPAB) between December 2012 and August 2016. 14 of them were rejected by the Committee or the Board on review or dismissed by the TPAB between December 2012 and July 2015 (i.e. before the cautious approach being adopted by the Board) mainly on the grounds that the proposed Small House developments were not in line with the planning intention of “AGR” zone; the proposed development would involve clearance of existing vegetation and would affect the existing natural landscape on the surrounding environment; land was still available within the “V” zone of Lei Uk Tsuen for Small House development and it was considered more appropriate to concentrate Small House development within the “V” zone so as to ensure an orderly development pattern, efficient use of land and provision of infrastructure and services; and as there were no approved similar applications within that part of “AGR” zone, the approval of the applications would set undesirable precedents for similar applications in the area.
- 6.4 The remaining two applications (No. A/NE-TKL/541 and 551) were rejected by the Committee or the Board on review in August 2016 (i.e. after the cautious approach being adopted by the Board) mainly on the grounds that the proposed Small House developments were not in line with the planning intention of “AGR” zone; and land was still available within the “V” zone of Lei Uk Tsuen for Small House development and it was considered more appropriate to concentrate Small House development within the “V” zone so as to ensure an orderly development pattern, efficient use of land and provision of infrastructure and services. The appeal of the application No. A/NE-TKL/541 was heard by TPAB on 26.9.2017 and the decision is still pending.
- 6.6 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

## 7. The Sites and Their Surrounding Area (Plans A-1, A-2a and A-2b, A-3 and A-4)

- 7.1 The Sites are:
  - (a) currently vacant, flat and overgrown with grass;

- (b) located to the east of the “V” zone of Lei Uk Tsuen (**Plans A-2a**); and
- (c) not served by any vehicular access.

7.2 The surrounding area has the following characteristics:

- (a) rural landscape character dominated by village houses, vacant land, fallow agricultural land and scattered tree groups;
- (b) surrounded by vacant / fallow farmland and tree groups;
- (c) to the north is the vacant site of a Small House development approved by the Committee in December 2014 (i.e. application No. A/NE-TKL/493) and the Small House grant application is being processed / approved by DLO/N, LandsD;
- (d) to the further north is Ping Yuen River; and
- (e) to the west are Small House developments approved by the Committee in May 2011 (i.e. applications No. A/NE-TKL/359 to 361) and to the further west is the village cluster within the “V” zone of Lei Uk Tsuen (**Plan A-2a**).

## 8. Planning Intention

The planning intention of the “AGR” zone in Ping Che and Ta Kwu Ling area is to primarily 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 summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?  - The Sites  - Footprints of the proposed Small Houses	-  -	100%  100%	The Sites and footprints of the proposed Small Houses fall entirely within an area zoned “AGR”.
2.	Within ‘VE’?  - The Sites  (Applications No. A/NE-TKL/591 to 593)  (Application No. A/NE-TKL/594)	100%  94.8%	-  5.2%	DLO/N, LandsD advises that the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Chow Tin Tsuen, Fung Wong Wu and Lei Uk.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
	- Footprints of the proposed Small Houses	100%	-	
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<p>- Land required to meet the Small House demand in Lei Uk Tsuen: about 13.2 ha (equivalent to 526 Small House sites). The outstanding Small House applications for Lei Uk Tsuen are 76<sup>2</sup> while the 10-year Small House demand forecast for the same village is 450.</p> <p>- Land available to meet the Small House demand within the “V” zone of Lei Uk Tsuen: about 2.33 ha (equivalent to 93 Small House sites) (<b>Plan A-2b</b>).</p>
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agriculture point of view as the Sites are abandoned land overgrown with grasses. Active agricultural activities can be found in the vicinity. Agricultural infrastructure such as road access, water supply and vegetable marketing cooperative society are available. The Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The proposed Small Houses are not incompatible with the existing rural village environments ( <b>Plan A-2b</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	
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 in-principle objection to the applications. The applicants are reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.

<sup>2</sup> Among the 76 outstanding Small House applications, 24 of them fall within the “V” zone and 52 straddle or outside the “V” zone. For those 52 applications straddling or being outside the “V” zone, one of them has obtained valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- Commissioner for Transport (C for T) has reservation on the applications and advises that Small House developments should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of developments outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</li> <li>- Notwithstanding the above, the applications only involve construction of four Small Houses. She considers that the applications can be tolerated unless they are rejected on other grounds.</li> </ul>
10.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an approval condition on the submission and implementation of drainage proposal is required for each of the applications.
11.	Sewage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> <li>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the applications from the landscape planning point of view.</li> <li>- The Sites are located within a large area of abandoned farmland covered within wild grasses. No trees are found within the Sites. Significant adverse impact to the landscape resource arising from the proposed developments is not anticipated.</li> <li>- Should the applications be approved, the approval condition on submission and implementation of landscape proposal is considered impracticable as the footprints of the Small Houses</li> </ul>

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
				almost occupied the entire Sites leaving inadequate space for landscape works.
13.	Local objection conveyed by DO?		✓	District Officer (North) (DO(N)) advises that the Vice-chairman of Ta Kwu Ling District Rural Committee, the North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representative (IIR) and the Resident Representative of Lei Uk have no comment on the applications. The IIR of Lei Uk provided additional comments that the applications are submitted by villagers for Small House developments.

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

- (a) District Lands Officer/North, Lands Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;
- (c) Director of Environmental Protection;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Commissioner for Transport;
- (f) Director of Agriculture, Fisheries and Conservation;
- (g) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (h) Director of Fire Services; and
- (i) District Officer (North), Home Affairs Department.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

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

On 15.5.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, six public comments on each application were received respectively (**Appendix V**). A NDC member supports the applications as they provide convenience to the villagers whereas the Chairman of Sheung Shui District Rural Committee indicates no comment on the applications. Kadoorie Farm and Botanic Garden Corporation, Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual object to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of “AGR” zone; the applications do not comply with the Interim Criteria in that the proposed development would cause adverse landscape impact to the surrounding area; there are similar rejected applications in the Lei Uk Tsuen; there is land available in “V” zone of Lei Uk Tsuen and the setting of undesirable precedents for similar applications in the area.

## 11. Planning Considerations and Assessments

- 11.1 The Sites fall within an area zoned “AGR” on the Ping Che and Ta Kwu Ling OZP. The proposed Small House developments are 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. DAFC does not support the applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Lei Uk Tsuen is 76 while the 10-year Small House demand forecast for the same village is 450. According to the latest estimate by PlanD, about 2.33 ha (equivalent to 93 Small House sites) of land are available in the “V” zone of Lei Uk Tsuen for Small House development (**Plan A-2b**). The footprints of the proposed Small Houses fall entirely within the ‘VE’ of Chow Tin Tsuen, Fung Wong Wu and Lei Uk.
- 11.3 The Sites are situated in an area of rural village character in proximity to the existing village, and the proposed Small House developments are not incompatible with the surrounding environment (**Plans A-2a** and **A-3**). The proposed Small Houses are not entirely incompatible with the existing rural village environment and no significant landscape resource will be affected arising from the developments. In this regard, CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed developments only involve the construction of four Small Houses, the applications could be tolerated. Other Government departments consulted, including D of FS, CE/C of WSD and CE/MN of DSD, have no adverse comment on or no objection to the applications.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Chow Tin Tsuen, Fung Wong Wu and Lei Uk (**Plan A-2a**). While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is noted that land (about 2.33 ha or equivalent to 93 Small House sites) is still available within the “V” zone to meet the outstanding 76 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 and special consideration would be given to sites with previous planning approvals for Small House development. As such, it is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.5 There are 28 similar applications for Small House development with/partly within the “AGR” zone in the vicinity of the Sites and 12 of them were approved by the Committee between 2002 and 2014 (i.e. before the cautious approach being adopted by the Board) (**Plan A-1**) mainly on the considerations that they complied with the Interim Criteria; the proposed Small Houses were not incompatible with the surrounding rural and village environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. The other 16 applications involving 5 sites were rejected by the Committee or the Board on review or dismissed



by TPAB on appeal between 2012 and 2016. 14 of them were rejected by the Committee or the Board on review or dismissed by the TPAB between 2012 and 2015 (i.e. before the cautious approach being adopted by the Board) and two applications (No. A/NE-TKL/467 and 468) were dismissed by the TPAB in 2015 as detailed in paragraphs 6.3 above. The remaining two applications (No. A/NE-TKL/541 and 551) were rejected by the Committee or the Board on review in 2016 (i.e. after the cautious approach being adopted by the Board) mainly on the grounds that the proposed Small House developments were not in line with the planning intention of “AGR” zone; and land was still available within the “V” zone of Lei Uk Tsuen for Small House development and it was considered more appropriate to concentrate Small House development within the “V” zone so as to ensure an orderly development pattern, efficient use of land and provision of infrastructure and services. The decision of TPAB on application No. A/NE-TKL/541 is awaiting. The planning circumstances of the current applications are similar to those applications (No. A/NE-TKL/541 and 551) which were rejected after the cautious approach being adopted by the Board.

- 11.6 Regarding the adverse public comment mainly on the considerations that the proposed developments are not in line with the planning intention of “AGR” zone; the applications do not comply with the Interim Criteria in that the proposed development would cause adverse landscape impact to the surrounding area; there is land available in “V” zone of Lei Uk Tsuen and the setting of undesirable precedents for similar applications in the area, Government departments’ 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 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 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 current submission for a departure from the planning intention; and
- (b) land is still available within the “V” zone of Lei Uk Tsuen where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permission shall be valid until 6.7.2022, 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 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**.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permissions.
- 13.2 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 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**

<b>Appendices Ia to Id</b>	Application Forms with Attachments received on 8.5.2018
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “Agriculture” zone in the Ping Che and Ta Kwu Ling Area
<b>Appendix IV</b>	Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawings A-1 to A-4</b>	Layout Plans
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available within the “V” zone of Lei Uk Tsuen for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo