

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

APPLICATION NO. A/NE-TKL/599

- Applicants** : Mr. CHIN Woon Sian (also known as Louis CHIN) , Mr. CHIN Woon Chun (also known as James CHIN), Mr. CHAN Jun Mon, Mr. CHAN Keung, Mr. CHIN Woon Vui and Mr. CHAN Ping Wing all represented by Mr. CHAN Chu Hang Arden
- Sites** : Lots 164 S.A ss.2, ss.6, Lots 164 S.B ss.3 S.A, S.B, S.D and S.E in D.D.79, Ping Yeung Village, Ta Kwu Ling, New Territories
- Site Area** : 922.2 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed 6 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)

1 The Proposal

1.1 The applicants, who claimed to be indigenous villagers¹, seek planning permission to build six proposed NTEHs (Small Houses) on four areas zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. /NE-TKL/14 (the Sites) (**Plans A-1 and A-2a**). 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)’ use in “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the application (**Plan A-2**) are as follows:

Applicant	Application Lot No.	House No.
Mr. CHAN Ping Wing	Lot 164 S.A ss.6	House No. 1
Mr. CHIN Woon Vui	Lot 164 S.A ss.2	House No. 2
Mr. CHAN Keung	Lot 164 S.B ss.3 S.A	House No. 3

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claimed themselves to be indigenous villagers of Ping Yeung Village of Ta Kwu Ling Heung. Their eligibilities for Small House concessionary grants have yet to be ascertained.

Mr. CHAN Jun Mon	Lot 164 S.B ss.3 S.B	House No. 4
Mr. CHIN Woon Chun	Lot 164 S.B ss.3 S.D	House No. 5
Mr. CHIN Woon Sian	Lot 164 S.B ss.3 S.E	House No. 6

The development parameters of each of the proposed NTEHs (Small Houses) are as follows:

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

- 1.3 The applicants indicate that the uncovered area of each of the Sites would be used as circulation area of the proposed Small Houses. Layouts of the six proposed Small Houses (Houses No. 1 to 6) and the proposed sewerage connection are shown on **Drawings A-1 to A-6** and **Drawing A-7** respectively.
- 1.4 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with attachments received on 15.6.2018 **(Appendix I)**
 - (b) Email dated 25.7.2018 requesting for deferment of consideration of the application **(Appendix Ia)**
 - (c) Further Information received on 28.8.2018 **(Appendix Ib)**
- 1.5 At the request of the applicants (**Appendix Ia**), the Rural and New Town Planning Committee (the Committee) of the Board agreed on 3.8.2018 to defer making a decision on the application for two months pending the preparation of further information to address the comments of Environmental Protection Department. The applicants submitted the further information (**Appendix Ib**) on 28.8.2018 and the application is re-scheduled for consideration by the Committee on 19.10.2018.

2 Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in part 9 of the Application Form in **Appendix I** and further information at **Appendix Ib**. They can be summarized as follows:

- (a) the proposed Small Houses are located within the village ‘environs’ (‘VE’) of a recognized village;
- (b) as advised by the LandsD, the proposed Small Houses require planning permissions from the Board; and
- (c) the applicants have proposed sewerage connection replacing the use of septic tank to address environmental concerns.

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 each of the Sites.

6 Similar Applications

- 6.1 There are 16 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 Of 16 similar applications, two applications (No. A/NE-TKL/183 and 383) were rejected by the Board on review/the Committee in February 2002 and December 2012 respectively mainly on the considerations that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell mainly outside the “V” zone and ‘VE’ of a recognised village; the applications were not in line with the planning intention of the “AGR” zone; and the approval of the applications would set undesirable precedents for similar applications.
- 6.3 For other 14 applications, 10 applications were approved with conditions by the Committee of the Board between November 2001 and August 2013 (i.e. before a more cautious approach is adopted by the Board) (**Plan A-1**) mainly on the considerations that the applications 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 in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of the same village; 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 environmental and traffic impacts on the surrounding areas. Four other applications (No. A/NE-TKL/543 to 546) were also approved by the Committee on 14.10.2016 (i.e. after a more cautious approach is adopted by the Board) (**Plan A-1**) on sympathetic consideration as the proposed Small Houses situated in close proximity to the sites of approved Small House applications (e.g. No. A/NE-TKL/438 and 440) though the land available within the “V” zone was able to meet the outstanding applications at the time of consideration.
- 6.4 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, aerial photo on Plan A-3 and site photos on Plan A-4)

7.1 The Sites are:

- (a) located at the southwestern fringe of the ‘VE’ of Ping Yeung Village and are about 65m to 90m away from the “V” zone and village proper of Ping Yeung Village; and

- (b) mainly vacant and overgrown with shrubs and wild grasses.

7.2 The surrounding areas have the following characteristics:

- (a) situated in a rural setting dominated by domestic structures, fallow agricultural land with some warehouses and open storage use;
- (b) sandwiched by planning applications No. A/NE-TKL/543 to 546 which were approved by the Committee on 14.10.2016 each for the development of a Small House and existing domestic structures (**Plan A-2a**);
- (c) to the immediate northeast is an open storage yard of construction materials and some temporary domestic structures, and to the further northeast is the village proper and the “V” zone of Ping Yeung Village;
- (d) to the east are two temporary domestic structures and fallow agricultural land;
- (e) to the south are warehouses, vacant land with some temporary domestic structures and unused land; and
- (f) to the west is another open storage yard with some temporary domestic structures and further west is Ping Yuen Road.

8 Planning Intention

The planning intention of the “AGR” zone in Ping Che and Ta Kwu Ling area 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 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 Sites - Footprints of the proposed Small Houses	- -	100% 100%	- The Sites and the footprints of the proposed Small Houses fall entirely within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> - The Sites <ul style="list-style-type: none"> - House No. 1 - House No. 2 - House No. 3 - House No. 4 - House No. 5 - House No. 6 - Footprints of the proposed Small Houses <ul style="list-style-type: none"> - House No.1 - House No.2 - House No.3 - House No.4 - House No.5 - House No.6 	<p>55.1%</p> <p>100%</p> <p>57.1%</p> <p>90.8%</p> <p>93.8%</p> <p>100%</p> <p>69.6%</p> <p>100%</p> <p>84.2%</p> <p>99.9%</p> <p>100%</p> <p>100%</p>	<p>44.9%</p> <p>-</p> <p>42.9%</p> <p>9.2%</p> <p>6.2%</p> <p>-</p> <p>30.4%</p> <p>-</p> <p>15.8%</p> <p>0.1%</p> <p>-</p> <p>-</p>	<p>- DLO/N, LandsD advises that the footprints of Houses No. 2, 5 and 6 fall entirely within the 'VE' of Ping Yeung Village while the footprints of Houses No. 1, 3 and 4 partly fall (over 50%) within the 'VE' of Ping Yeung Village.</p>
3.	<p>Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p>		✓	<p>- Land required to meet the Small House demand in Ping Yeung Village: about 116.78 ha (equivalent to 4,671 Small House sites). The outstanding Small House applications for Ping Yeung Village are 71² while the 10-year Small House demand forecast for the same village is 4,600.</p>
	<p>Sufficient land in "V" zone to meet outstanding Small House application?</p>	✓		<p>- Land available to meet the Small House demand within the "V" zone of Ping Yeung Village: about 5.49 ha (equivalent to 219 Small House sites) (Plan A-2b).</p>

² Among the 71 outstanding Small House applications, 40 of them fall within the "V" zone and 31 straddle or outside the "V" zone. For those 31 applications straddling or being outside the "V" zone, 4 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	<p>- The Director of Agriculture, Fisheries and Conservation (DAFC) states that agricultural infrastructure such as road access is available. The application is not supported from agriculture point of view as the Sites possess potential for agricultural rehabilitation.</p> <p>- There are watercourses in close proximity to the Sites. Should the application be approved due to other consideration, the applicants should be reminded to perform good site practice to prevent surface run-off and debris from polluting the watercourses nearby.</p>
5.	Compatible with surrounding area/ development?	✓		<p>- The proposed Small Houses are not entirely incompatible with the surrounding rural setting and environment dominated by domestic structures, fallow agricultural land, open storage yards and warehouses (Plan A-2a).</p>
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)?		✓	<p>- The Director of Fire Services (D of FS) has no in-principle objection to the application. The applicants are reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.</p>
9.	Traffic impact?	✓		<p>- The Commissioner for Transport (C for T) has reservation on the application 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 are not</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>expected to be significant, such type of development outside the “V” zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</p> <p>- Notwithstanding the above, the application involves construction of six Small Houses. She considers that the application can be tolerated unless it is rejected on other grounds.</p>
10.	Drainage impact?	✓		<p>- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.</p>
11.	Sewerage impact?		✓	<p>- The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the application alone is unlikely to cause major pollution.</p> <p>- There is sufficient level drop between the proposed developments and the existing sewer along Ping Yuen Road. The public sewerage in the area should have sufficient capacity to cater for the sewage arising from the proposed Small Houses.</p>
12.	Landscaping impact?	✓		<p>- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the application from landscape planning perspective.</p> <p>- According to her site record, there is a <i>Ficus microcarpa</i> (細葉榕) over 8m tall of good amenity value located at the south just outside the House No. 1 in which its wide spread tree canopy (i.e. 10m in diameter) may be affected. For the other five proposed Small Houses, no significant adverse</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>landscape impact is anticipated. Existing vegetation outside the Sites may also be affected as there is no proper road/path connected from public road to individual houses.</p> <p>- Should the application be approved, approval condition for landscape works are not recommended as most sites are around 140m² (including the Small House) which do not provide adequate planting space for effective tree planting works.</p>
13.	Local objections conveyed by DO?		✓	<p>- District Officer (North) (DO(N)) advises that he has consulted the locals. The Indigenous Inhabitant Representatives and the Resident Representative of Ping Yeung have no comments on the proposal but provide additional views that the application is not located within the 'VE' of Ping Yeung Village. If the current application for Small House development be approved, future applications that share similar circumstances as the current one should be approved for the sake of fairness. Ta Kwu Ling District Rural Committee has no comment on the application.</p>

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

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

- (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 22.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments were received (**Appendix V**). A North District Council member supports the application as it can provide convenience to the villagers, whereas the Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two village representatives of Ping Yeung Village provide views that the application is not located within the 'VE' of Ping Yeung Village. If the current application for Small House development be approved, future applications that share similar circumstances as the current one should be approved for the sake for fairness. Two individuals object to the application mainly on the grounds that the application is suspected with illegal sale of "indigenous villager" rights; approval of the application is not in line with the planning intention of the "AGR" zone and will encourage the proliferation of septic tanks; and the application sites are not suitable for building Small Houses.

11 Planning Considerations and Assessments

- 11.1 The Sites fall entirely within an area zoned "AGR" on the OZP. The proposed Small House developments are not in line with the planning intention of the "AGR" zone which is intended 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 Sites possess potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD's records, the total number of outstanding Small House applications for Ping Yeung Village is 71 while the 10-year Small House demand forecast for the same village is 4,600. According to the latest estimate by PlanD, about 5.49 ha (equivalent to 219 Small House sites) of land are available in the "V" zone of Ping Yeung Village for Small House development (**Plan A-2b**). DLO/N, LandsD advises that Small House footprints under the application fall entirely/partly (over 50%) within the 'VE' of Ping Yeung Village.
- 11.3 The Sites are mainly covered by wild grasses and shrubs and located to the southwest of the "V" zone and village proper of Ping Yeung Village (**Plans A-3 and A-4**). The proposed Small House developments are not entirely incompatible with the surrounding rural landscape character dominated by domestic structures, fallow agricultural land, open storage yards and warehouses (**Plan A-2**). CTP/UD&L, PlanD has reservation to the application from the landscape planning perspective as the development of House No.1 may affect the stretched tree canopy of a *Ficus microcarpa* (細葉榕) located at the south outside the application site (**Plan A-2a**). Yet, significant adverse landscape impact arising from the development of Houses No. 2 to 6 is not anticipated. C for T has reservation on the application and considers that Small House developments should be confined within the "V" zone as far as possible but given that the proposed developments involve six Small Houses, it could be tolerated. Other relevant Government departments, including DEP, CE/MN of DSD and D of FS, have no adverse comment on/no objection to the application.

- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Ping Yeung Village (**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 5.49 ha or equivalent to 219 Small House sites) is still available within the “V” zone to meet the 71 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. As such, 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 infrastructure and services. Nevertheless, the proposed Small Houses are sandwiched by four Small House applications (No. A/NE-TKL/543 to 546) approved by the Committee in 2016 (**Plan A-2a**). The subject application can be considered as an infill Small House development at the fringe of the ‘VE’ of Ping Yeung Village while a new village cluster is forming in the locality (**Plan A-2a** and **A-2b**). In this regard, sympathetic consideration might be given to the applicants.
- 11.5 There are 16 similar applications for Small House development in the vicinity of the Sites and 10 of them were approved by the Committee between November 2011 and August 2013 (i.e. before the adoption of a more cautious approach by the Board) (**Plan A-1**) mainly on considerations that they complied with the Interim Criteria; there was a general shortage of land in meeting the demand for Small House development in the “V” zone of the same village; the proposed Small House developments were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding areas. For the four similar applications (No. A/NE-TKL/543 to 546) (i.e. after the adoption of a more cautious approach by the Board), they were approved by the Committee in October 2016 on sympathetic considerations that, though the land available within the “V” zone was able to meet the outstanding applications at the time of consideration, there were similar approved applications in close proximity to the four approved Small House application sites and the applications generally complied with the Interim Criteria. The circumstance of the subject application is similar to the approved similar applications No. A/NE-TKL/543 to 546. The approval of the subject application is in line with the Committee’s previous decision in approving the applications (No. A/NE-TKL/543 to 546) in close proximity to the Sites.
- 11.6 Regarding the local views and adverse public comments objecting to the application on the grounds as summarized in paragraphs 9.1 and 10 above, Government departments’ comments and planning assessments in the above paragraphs are relevant. Regarding the views from village representatives of Ping Yeung Village that the proposed Small Houses are located outside the ‘VE’ of Ping Yeung Village, DLO/N, LandsD reconfirmed that Small House footprints under the application fall entirely/partly (over 50%) within the ‘VE’ of Ping Yeung Village.

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 has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 19.10.2022, 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 submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the connection of the foul water drainage system to the public sewers 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**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone in the Ping Che and Ta Kwu Ling area 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 "V" zone of Ping Yeung Village 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 more orderly development pattern, efficient use of land and provision of infrastructures and services.

13 Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14 Attachments

Appendix I	Application Form with attachments received on 15.6.2018
Appendix Ia	Email dated 25.7.2018 requesting for deferment of consideration of the application
Appendix Ib	Further Information received on 28.8.2018

Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the “AGR” Zone in the vicinity of the Sites in the Ping Che and Ta Kwu Ling area
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawings A-1 to 6	Layout Plans
Drawing A-7	Sewerage Proposal
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Ping Yeung Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2018**