

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-TKL/649 to 652

- Applicants** : (i) Mr. LAU Chi Wo (Application No. A/NE-TKL/649)
(ii) Mr. TO Wai Kin (Application No. A/NE-TKL/650)
(iii) Mr. LAM Ka Fai (Application No. A/NE-TKL/651)
(iv) Mr. LAM Yiu Kong Patrick (Application No. A/NE-TKL/652)
All represented by Mr. HO Siu Wing
- Sites** : (i) Lot 546 S.B ss.1 in D.D. 77 (Application No. A/NE-TKL/649)
(ii) Lot 546 S.D ss.1 in D.D. 77 (Application No. A/NE-TKL/650)
(iii) Lot 546 S.G ss.1 in D.D. 77 (Application No. A/NE-TKL/651)
(iv) Lot 546 S.I ss.1 in D.D. 77 (Application No. A/NE-TKL/652)
All in Ping Che, Ta Kwu Ling, New Territories
- Site Areas** : (i) 129.1 m² (about) (Application No. A/NE-TKL/649)
(ii) 112.8 m² (about) (Application No. A/NE-TKL/650)
(iii) 120.6 m² (about) (Application No. A/NE-TKL/651)
(iv) 103.2 m² (about) (Application No. A/NE-TKL/652)
- 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”)
- Applications** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposals

- 1.1 The applicants, who are indigenous villagers in Ta Kwu Ling Heung¹, seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) in Ping Che Village (**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 NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use in the “AGR” zone requiring planning permission from the Town Planning Board (the Board).

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants have been certified by their respective Indigenous Inhabitants Representative (IIR) in statutory declaration that they are indigenous villagers of Shan Kai Wat (Applications No. A/NE-TKL/649, 651 and 652) and Lo Shue Ling (Application No. A/NE-TKL/650) in Ta Kwu Ling Heung.

1.2 Details of each of the four 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 Layouts of the four proposed Small Houses under Applications No. A/NE-TKL/649 to 652 (including septic tanks) are shown on **Drawings A-1 to A-4** respectively.

1.4 Each of the Sites is the subject of a previously approved planning application as listed below:

<u>Current application</u>	<u>Previous application</u>	<u>Approval</u>
No. A/NE-TKL/649	No. A/NE-TKL/488	Approved with conditions on 31.10.2014
No. A/NE-TKL/650	No. A/NE-TKL/528	Approved with conditions on 6.11.2015
No. A/NE-TKL/651	No. A/NE-TKL/498	Approved with conditions on 6.2.2015
No. A/NE-TKL/652	No. A/NE-TKL/500	Approved with conditions on 6.2.2015

1.5 The current applications are submitted by the same applicants of the respective previous applications for the same use. Compared with the previous applications, major development parameters including the layouts of the proposed Small Houses under the current applications remain unchanged.

1.6 In support of the applications, the applicants have submitted the following documents:

- (a) Application Forms with attachments received on **(Appendices Ia to Id)** 5.10.2020
- (b) Further Information received on 11.11.2020 clarifying **(Appendix Ie)** background information of the applications (*accepted and exempted from publication and recounting requirements*)

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in Part 8 of the Application Forms at **Appendices Ia to Id** and the Further Information at **Appendix Ie**. They can be summarised as follows:

- (a) the proposed Small Houses will be built on vacant agricultural land;
- (b) there is no other land available for the proposed Small House developments;
- (c) there are other similar Small Houses built in the vicinity of the Sites; and
- (d) the Sites are the subject of four previous planning applications for NTEH (Small House) development approved between 2014 and 2015 (**Plan A-2a**). The applicants forgot to submit extension of time applications and those planning approvals lapsed. LandsD would proceed the Small House grant applications after granting of planning permissions.

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

The applicants are the sole “current land owners” 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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Applications

- 5.1 The Sites under applications No. A/NE-TKL/649 to 652 are the subject of previous applications No. A/NE-TKL/488, 528, 498 and 500 respectively for the same use submitted by the same applicants as the current applications.
- 5.2 Three applications No. A/NE-TKL/488 and 498 & 500 were approved by the Committee between October 2014 and February 2015 before the adoption of a more cautious approach by the Board mainly on the considerations that the applications generally complied with the Interim Criteria in that there was a general shortage of land within the “V” zone at the time of consideration; the proposed developments were not incompatible with the surrounding area; and significant adverse landscape impact was not anticipated. Application No. A/NE-TKL/528 was approved by the Committee on 6.11.2015 after the adoption of a more cautious approach by the Board mainly on sympathetic consideration that the proposed Small House was in proximity to existing village houses and approved Small House applications despite that the land available within the “V” zone was capable to meet the outstanding applications at the time of consideration. These planning permissions lapsed between October 2018 and November 2019. Compared with the previously approved applications, there is no change to the major development parameters including the site areas and the layouts of the proposed Small Houses.
- 5.3 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 17 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. They were all approved.
- 6.2 A total of 12 applications were approved with conditions by the Committee between June 2007 and February 2015 (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 village ‘environs’ (‘VE’) and there was a general shortage of land within

the “V” zones of Ping Che village cluster² at the time of considerations; the proposed Small House developments were not incompatible with the surrounding area; and the proposed developments would unlikely cause adverse environmental, drainage and traffic impacts on the surrounding areas.

- 6.3 Four applications (No. A/NE-TKL/529, 530, 536 and 537) were approved by the Committee between November 2015 and January 2016 (i.e. after the cautious approach being adopted by the Board) mainly on sympathetic considerations that the proposed Small Houses situated in proximity to the existing village houses and approved Small House applications though the land available within the “V” zone was able to meet the outstanding applications at the time of considerations; and the proposed Small Houses were considered as infill Small House developments while a new village cluster was forming in the locality. The remaining application No. A/NE-TKL/630 was approved by the Committee in December 2019 mainly for the reason of being the subject of a previously approved application (No. A/NE-TKL/350) and the processing of the Small House grant was already at an advanced stage.
- 6.4 Details of the similar applications are summarised 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 A-2b, aerial photo on Plan A-3 and site photos on Plans A-4a and A-4b)

7.1 The Sites are:

- (a) generally vacant, flat and overgrown with shrubs and grass, with part of the Site under Application No. A/NE-TKL/652 being active agricultural land;
- (b) located to the west of the “V” zone of Ping Che; and
- (c) accessible from Ng Chow South Road.

7.2 The surrounding areas have the following characteristics:

- (a) the Sites are situated in an area of rural landscape character dominated by abandoned land, temporary structures and village houses with some open storage and warehouse uses;
- (b) to the immediate east is Ping Che Mini-Soccer Pitch, and to the further east across Ng Chow Road are village houses in the village proper of Ping Che;
- (c) to the immediate south of the Sites near Ng Chow South Road is hard paved area with three approved Small House grant applications and village houses either completed or under construction;
- (d) to the north and south are vacant land with some previously approved planning applications for Small House development with Small House grant applications approved / being processed by LandsD;

² Ping Che village cluster comprises Ping Che, Ping Che Kat Tin and Ping Che Yuen Ha.

- (e) to the further south across Ng Chow South Road is an area zoned “Green Belt” (“GB”) with a sitting-out area, sewage pumping station and an electricity substation; and
- (f) to the west are temporary domestic structures, open storage, warehouse and parking of vehicles.

8. Planning Intention

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 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 the “AGR” zone.
2.	Within ‘VE’? - The Sites - Footprints of the proposed Small Houses	100% 100%	- -	- DLO/N, LandsD advises that the Sites fall entirely within the ‘VE’ of Ping Che.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Ping Che: about 5.23 ha (equivalent to 209 Small House sites). The outstanding Small House applications for Ping Che are 49 ³ while the 10-year Small House demand forecast for the same village is 160.

³ Among the 49 outstanding Small House applications, 28 of them fall within the “V” zone and 21 straddle or outside the “V” zone. For those 21 applications straddling or outside the “V” zone, none of them has obtained planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Ping Che village cluster: about 3.7 ha (equivalent to 148 Small House sites) (Plans A-2b to A-2d).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural point of view as part of the Sites is under active cultivation and the Sites possess potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		- The proposed developments are not incompatible with the surrounding areas comprising abandoned agricultural land, hard paved area with temporary structures and established village houses (Plan A-2a).
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.
9.	Traffic impact?	✓		- 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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>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.</p> <p>- Notwithstanding the above, the applications involve construction of four Small Houses. She considers that the applications can be tolerated unless being rejected on other grounds.</p>
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 the applications.
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications are unlikely to cause major pollution.
12.	Landscaping impact?		✓	<p>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective.</p> <p>- Based on aerial photo of March 2019, the Sites are situated in an area of rural landscape character comprising abandoned agricultural land, hard paved area with erected temporary structures and established village houses. The Sites are abandoned agricultural land with grassy vegetation. Significant adverse landscape impact arising from the developments within the Sites are not anticipated.</p> <p>- Since there is no public frontage along the site boundary, should the Board approve the applications, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objection conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that the incumbent North District Council member of the subject constituency, the 1 st Vice-Chairman of Ta Kwu Ling District Rural Committee, the IIR and the Resident Representative of Ping Che have no comment on the applications.

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/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 applications:

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

10. Public Comments Received During Statutory Publication Period

On 13.10.2020, the applications were published for public inspection. During the statutory public inspection period, three public comments were received for each of the applications (**Appendix VI**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the applications. Two individuals object to the applications mainly on the grounds that illegal selling of Small House concessionary right is suspected; previous planning approvals have lapsed and the applications should be viewed as fresh applications under current guidelines; and the proposed septic tanks would cause water pollution.

11. Planning Considerations and Assessments

11.1 The Sites fall entirely within the “AGR” on the OZP. The proposed Small Houses 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the applications from the agricultural point of view as part of the Sites is under active cultivation and that 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 Che village cluster is 49 while the 10-year Small House demand forecast for the same village cluster is 160. According to the latest estimate by PlanD, about 3.7 ha (equivalent to 148 Small House sites) of land are available in the “V”

zones of Ping Che village cluster for Small House development (**Plans A-2b to A-2d**). DLO/N, LandsD advises that the Sites fall within the 'VE' of Ping Che.

- 11.3 The Sites are situated in an area of rural village character in close proximity to the existing village proper of Ping Che to their east (**Plan A-2a**). The proposed Small House developments are not incompatible with the surrounding rural landscape character comprising abandoned land, hard paved area with erected temporary structures and village houses (**Plan A-3**). CTP/UD&L, PlanD has no objection to the applications as significant adverse impact on existing landscape resources arising from the proposed developments is not anticipated. C for T considers that Small House developments should be confined within the "V" zone as far as possible but given that the proposed developments involve construction of four Small Houses, the applications could be tolerated. Other relevant Government departments, including CE/MN of DSD, CE/C of WSD, D of FS, HyD and CEDD, have no adverse comment on / no objection to the applications.
- 11.4 Regarding the Interim Criteria (**Appendix II**), the footprints of the proposed Small Houses fall entirely within the 'VE' of Ping Che (**Plan A-2a**). While land available within the "V" zones of Ping Che village cluster is insufficient to fully meet the future Small House demand of 209 Small Houses, such available land (about 3.7 ha or equivalent to 148 Small House sites) is capable to meet the 49 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 infrastructures and services. Nevertheless, it is noted that the Sites are the subject of previously approved planning applications (No. A/NE-TKL/488, 498, 500 and 528) for the same use submitted by the same applicants. Compared with the previous applications, there is no change to major planning parameters including the layouts of the proposed Small Houses. Moreover, according to DLO/N of LandsD, the relevant Small House grant applications are still under processing. Hence, sympathetic consideration could be given to the current applications.
- 11.5 There are 17 similar applications for Small House development in the vicinity of the Sites (**Plan A-2a**) which were all approved. Before the adoption of a more cautious approach by the Board, 12 applications were approved by the Committee between June 2007 and February 2015 mainly on the grounds of generally complying with the Interim Criteria. After the adoption of a more cautious approach by the Board, four applications (No. A/NE-TKL/529, 530, 536 and 537) were approved between November 2015 and January 2016 mainly on sympathetic considerations that the proposed Small Houses situated in proximity to the existing village houses and approved Small House developments, the implementation of which were forming a new village cluster in the locality. The remaining application (No. A/NE-TKL/630), located to the south of the Sites, was approved in December 2019 mainly for the reason of being the subject of a previously approved application (No. A/NE-TKL/350) and the processing of the Small House grant was already at an advanced stage. In this regard, it is considered that the planning circumstances of the current applications are similar to applications approved after the adoption of a more cautious approach by the Board.
- 11.6 Regarding the public comments mentioned in paragraph 10 above, Government departments' comments and planning assessments above are relevant. In respect of the public comment on the suspected illegal selling of Small House concessionary right, LandsD advises that application for Small House on private land would be rejected if the applicant is not the registered sole owner of the lot under application. If there is

misrepresentation by an applicant or potential abuse of Small House Policy, LandsD will initiate investigation and refer to the relevant enforcement departments if necessary.

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 above, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permission shall be valid until 4.12.2024, 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 VII**.

- 12.3 Alternatively, should the Committee decide to reject the applications, 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 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" zones of Ping Che village cluster where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zones 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 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 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 with attachments received on 5.10.2020
Appendix Ie	Further Information received on 11.11.2020
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar s.16 Applications for Proposed 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 V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-4	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Ping Che for Small House Development
Plan A-2c	Estimated Amount of Land Available within the “V” zone of Ping Che Kat Tin for Small House Development
Plan A-2d	Estimated Amount of Land Available within the “V” zone of Ping Che Yuen Ha for Small House Development
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**