

RNTPC Paper No. A/NE-PK/190  
For Consideration by the  
Rural and New Town Planning  
Committee on 11.8.2023

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

**APPLICATION NO. A/NE-PK/190**

- Applicant** : Mr. HAU Yuk Sang represented by Shing Yue Construction and Engineering Limited
- Site** : Government Land in D.D. 9-91, Ping Kong Village, Sheung Shui, New Territories
- Site Area** : About 65.03m<sup>2</sup>
- Land Status** : Unleased Government Land
- Plan** : Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

1.1 The applicant, who claims himself to be an indigenous villager of Ping Kong Village, Sheung Shui Heung<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) falling within an area zoned “AGR” on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ use within “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed Small House development are as follows:

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

1.3 According to the applicant, the Site is not accessible by vehicles. The layout of the proposed Small House and the location of the proposed septic tank are shown in **Drawing A-1**.

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<sup>1</sup> District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the applicant’s eligibility of Small House grant is yet to be ascertained.

1.4 In support of the application, the applicant has submitted the following documents:

(a) Application Form with attachments received on (**Appendix I**) 16.6.2023.

(b) Further Information (FI) received on 27.7.2023 (**Appendix Ia**)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I** and **Ia** respectively as summarized below:

- (a) the applicant is an indigenous villager who has right to build a Small House;
- (b) the Site falls entirely within the village ‘environs’ (‘VE’) of Ping Kong Village. The applicant has no land within the “Village Type Development” (“V”) zone for Small House development. Land available for Small House development within the “V” zone of Ping Kong Village is very limited and is not sufficient to meet the Small House demand;
- (c) the proposed development will not cause any environmental impact on the surrounding areas; and
- (d) the applicant is willing to follow the Board’s advice and adopt effective measures to ensure that there is no adverse impact incurred by the proposed development.

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

As the Site involves Government land only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable to the application.

## **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. The latest set of Interim Criteria, which was revised on 7.9.2007, is at **Appendix II**.

## **5. Previous Application**

There is no previous application at the Site.

## **6. Similar Application**

- 6.1 There is one similar application No. A/NE-PK/19 for Small House development within the same “AGR” zone in the vicinity of the Site. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 7.12.2001 before the formal adoption of a more cautious approach by the Board in considering applications for Small House development since August 2015. It was approved for reasons that it was generally in line with the Interim Criteria in that the Small House footprint was located entirely within the ‘VE’; it would not cause significant adverse environmental, drainage and traffic impacts on the surroundings; and there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration.
- 6.2 Details of the similar application are summarized at **Appendix III** and its location is shown on **Plan A-2a**.

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

- 7.1 The Site is:
- (a) currently vacant, and covered with grass; and
  - (b) located entirely within the ‘VE’ of Ping Kong Village.
- 7.2 The surrounding areas are predominantly rural in character comprising tree groups, vegetated areas, farmland and village houses. About 25m to the northeast is the village proper of Ping Kong Village.

## **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 application has been assessed against the assessment criteria at **Appendix II**. The assessment is summarized in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone?  - Footprint of the proposed Small	-	100%	- The Site and footprint of the proposed Small House fall

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
	House - The Site	-	100%	entirely within the “AGR” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	100%  100%	-  -	The Site and footprint of the proposed Small House fall entirely within the ‘VE’ of Ping Kong Village.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?	✓		<u>Land Required</u> - Land required to meet Small House demand in Ping Kong Village: about 1.05ha (equivalent to 42 Small House sites). The outstanding Small House applications are 13 <sup>2</sup> while the 10-year Small House demand forecast is 29.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zone of concerned village: about 2.8ha (equivalent to about 112 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) advises that the Site can be used for agricultural activities, such as greenhouses and plant nurseries, and agricultural activities are active in the vicinity. However, there is no public access to the Site. He has no strong view on the application having regard that the potential for agricultural rehabilitation of the Site is compromised by lack of public access.
5.	Compatible with surrounding area/	✓		The surrounding areas are predominantly rural in character

<sup>2</sup> Among the 13 outstanding Small House applications, 10 fall within “V” zone and 3 straddle or fall outside the “V” zone. The cases straddling or falling outside of “V” zone are not covered by valid planning permission.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
	development?			comprising tree clusters, vegetated areas, farmland and village houses.
6.	Within water gathering grounds?		✓	
7.	Sewerage impact?		✓	Director of Environmental Protection (DEP) advises that in view of small scale of the proposed development, the application alone is unlikely to cause major pollution.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	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 application.
10.	Traffic impact?	✓		Commissioner for Transport (C for T) advises that Small House development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, the application only involving development of one Small House could be tolerated on traffic grounds.
11.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that an approval condition requiring the submission and implementation of drainage proposal is required.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
12.	Landscape impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed use is not anticipated.
13.	Geotechnical impact?		✓	Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical comments on the application.
14.	Local objections conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Indigenous Inhabitant Representative of Ping Kong Village supports the application, whereas the incumbent District Councilor, the Chairman of Sheung Shui District Rural Committee and the Resident Representative of Ping Kong Village have no comment on the application.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and recommended advisory clauses are provided at **Appendices IV** and **VI** respectively.

- (a) DLO/N, LandsD;
- (b) DAFC;
- (c) C for T;
- (d) DEP;
- (e) CE/MN, DSD;
- (f) CTP/UD&L, PlanD;
- (g) D of FS;
- (h) H(GEO), CEDD; and
- (i) DO(N), HAD.

9.3 The following government departments have no objection to/no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Project Manager (North), Civil Engineering and Development Department.

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

On 23.6.2023, the application was published for public inspection. During the statutory public inspection period, two public comments (**Appendix V**) were received from individuals. One commenter indicates no comment on the application, while the remaining one objects to the application mainly for reason that the proposed development is within “AGR” zone and on Government land.

## **11. Planning Considerations and Assessment**

11.1 The application is for a proposed Small House development on the Site which falls within an area zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC advises that the Site can be used for agricultural activities such as greenhouses and plant nurseries, and agricultural activities are active in the vicinity. He has no strong view on the application having regard that the potential for agricultural rehabilitation of the Site is compromised by lack of public access. Notwithstanding the above, there is no strong planning justification in the submission to justify a departure from the planning intention.

11.2 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Ping Kong Village. According to DLO/N of LandsD’s records, the total number of outstanding Small House applications for Ping Kong Village is 13 while the 10-year Small House demand forecast is 29. Based on the latest estimate by PlanD, about 2.8ha of land (or equivalent to about 112 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). In this regard, the proposed development does not comply with the Interim Criteria in that there is sufficient land within the “V” zone (about 2.8ha or equivalent to 112 Small House sites) to fully meet the Small House demand of 42 houses (i.e. 13 outstanding Small House applications plus the 10-year demand forecast of 29 Small Houses). There is no general shortage of land in meeting the demand for Small House development in the concerned “V” zone.

11.3 The Site is currently vacant and covered with grass. The village proper of Ping Kong is about 25m to the northeast. The proposed Small House is considered

not incompatible with the surrounding areas comprising tree groups, vegetated areas, farmland and village houses. CTP/UD&L of PlanD has no objection to the application, as significant adverse landscape impact on the surrounding areas arising from the proposed development is not anticipated. C for T considers that the application involving only one Small House could be tolerated. CE/MN of DSD recommends an approval condition requiring the submission and implementation of drainage proposal. Other concerned government departments including DEP and D of FS have no objection to or no adverse comment on the application.

- 11.4 There is one similar application for Small House development in the vicinity of the Site, which was approved by the Committee on 7.12.2001 before the formal adoption of a more cautious approach by the Board since August 2015. The application was approved mainly for reasons that it was generally in line with the Interim Criteria in that the Small House footprint was located entirely within the 'VE'; it would not cause significant adverse environmental, drainage and traffic impacts on the surroundings; and there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration. The planning circumstances for approval of this application were not applicable to the current application.
- 11.5 Regarding the public comments objecting to the application as detailed in paragraph 10 above, comments of government departments and the 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 in paragraph 10, Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "Agriculture" ("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. There is no strong planning justification in the submission for a departure from the planning intention; and
  - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of Ping Kong Village.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 11.8.2027, 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 condition of approval and advisory clauses are also suggested for



Members' reference:

Approval Condition

- the submission and implementation of a 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 application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the date when the validity of the permission should expire.

**14. Attachments**

<b>Appendix I</b>	Application Form Received on 16.6.2023
<b>Appendix Ia</b>	FI Received on 27.7.2023
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar Application
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available within "V" Zone Ping Kong Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
AUGUST 2023**