

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

**APPLICATION NO. A/NE-TKL/664**

**Applicant** : Mr. CHAN Kwai Yue represented by Glister Engineering Consultants Company

**Site** : Lot 180 S.A in D.D. 79, Ping Yeung Village, Ta Kwu Ling, New Territories

**Site Area** : 131 m<sup>2</sup> (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 House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

1.1 The applicant, who claims himself an indigenous villager of Ping Yeung village in Ta Kwu Ling Heung<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Ping Yeung village, Ta Kwu Ling (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling Outline Zoning Plan (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)’ in “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant, flat and overgrown with grass.

1.2 Details of the proposed NTEH (Small House) 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 Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as garden of his proposed Small House.

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant has been certified by the Vice-Chairman of Ta Kwu Ling Rural Committee in statutory declaration that the applicant is an indigenous villager of Ping Yeung village in Ta Kwu Ling Heung.

- 1.4 The Site is the subject of a previously approved application (No. A/NE-TKL/438) for the same use submitted by the same applicant. That planning permission had lapsed on 3.8.2017. When compared with the previous application, there is no change to the major development parameters and the proposed Small House footprint.
- 1.5 In support of the application, the applicant has submitted the Application Form with attachments and Further Information received on 19.4.2021 and 1.6.2021 in **Appendices I and Ia** respectively.

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

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendices I and Ia**. They can be summarised as follows:

- (a) the applicant is the registered owner of the Site, which falls within the village 'environs' ('VE') of Ping Yeung;
- (b) the applicant is an indigenous villager of Ping Yeung and is entitled for Small House Grant under the Small House policy;
- (c) the Site is the subject of a previously approved planning application No. A/NE-TKL/438 submitted by the applicant. The applicant forgot to make an application for an extension of time for commencement of the Small House development, and hence a fresh planning application is required;
- (d) the proposed development is considered compatible with the adjoining rural environment; and
- (e) there are other similar applications approved in the vicinity of the Site.

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

The applicant is the sole "current land owner" of the lot. 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 Application**

- 5.1 The Site is subject of the previous application No. A/NE-TKL/438 for Small House development submitted by the same applicant as the current application. The application was approved on 2.8.2013 by the Committee mainly on the grounds that the application generally complied with the Interim Criteria in that the footprint of the proposed Small House fell mostly within the 'VE' and there was a general shortage of land within the

“Village Type Development” (“V”) zone at the time of consideration; the proposed development was not incompatible with the surrounding area; and significant adverse impact were not anticipated. The planning permission had lapsed on 3.8.2017. When compared with the previous application, there is no change to the major development parameters and the proposed Small House footprint.

- 5.2 Details of the previous application are summarized at **Appendix III** and the location is shown on **Plans A-1 and A-2a**.

## 6. Similar Applications

- 6.1 There are 22 similar applications for Small House development in the vicinity of the Site (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Four applications (No. A/NE-TKL/183, 369, 383 and 617) were rejected by the Board on review/the Committee between February 2002 and November 2019 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 outside/ 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 Nine applications (No. A/NE-TKL/180, 220, 240, 269, 282, 294, 296, 327 and 440) 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) 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 “V” zone of the same village 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 environmental and traffic impacts on the surrounding areas.
- 6.4 Eight applications (No. A/NE-TKL/543 to 546, 599, 604, 627 and 628) were approved by the Committee between October 2016 and November 2019 (i.e. after a more cautious approach) is adopted by the Board mainly on sympathetic considerations that the proposed Small Houses situated in close proximity to the sites of approved Small House applications though the land available within the “V” zone was able to meet the outstanding applications at the time of consideration; and the proposed Small Houses were sandwiched by Small House applications and considered as an infill Small House development at the fringe of the ‘VE’; and a new village cluster was forming in the locality.
- 6.5 One application No. A/NE-TKL/619 was rejected by the Committee in August 2019 (i.e. after a more cautious approach) is adopted by the Board mainly on the considerations that the application was not in line with the planning intention of the “AGR” zone; and land is still available within the “V” zone of Ping Yeung where land is primarily intended for Small House Development.
- 6.6 Details of the applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

**7. The Site and its Surrounding Areas (Plans A-1, A-2a and A-2b, aerial photo on Plan A-3 and site photos on Plan A-4)**

7.1 The Site is:

- (a) currently vacant, flat and overgrown with grass;
- (b) located to the south-west of the “V” zone of Ping Yeung; and
- (c) accessible via a local track leading to Ping Yuen Road.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character where village houses, temporary structures and fallow agricultural land are found;
- (b) to the immediate east, north and west are some existing village houses / village houses under approved applications; and
- (c) to the further north-east are village houses within the “V” zone of Ping Yeung.

**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 in **Appendix II**. The assessment is summarised 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? - The Site - Footprint of the proposed Small House	- -	100% 100%	- The Site and footprint of the proposed Small House fall within an area zoned “AGR”.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	98% 100%	2% -	- DLO/N, LandsD advises that the footprint of the proposed Small House falls within the ‘VE’ of Ping Yeung.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 Yeung: about 27 ha (equivalent to 1,079 Small House sites). The outstanding Small House applications for Ping Yeung are 44 <sup>2</sup> while the 10-year Small House demand forecast for the same village is 1,035.
	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 Yeung: about 4.9 ha (equivalent to 196 Small House sites).
4.	Compatible with the planning intention of "AGR" zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The proposed development is not incompatible with the surrounding areas predominated by village houses, fallow agricultural land and some open storage yard and warehouse ( <b>Plan A-2a</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 application. The applicant is 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 application and advises that Small House development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed

<sup>2</sup> Among the 44 outstanding Small House applications, 23 of them fall within the "V" zone and 21 straddle or outside the "V" zone. For those 21 applications straddling or being outside the "V" zone, 6 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>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 resulting cumulative adverse traffic impact could be substantial.</p> <p>- Notwithstanding the above, the application involves construction of one Small House. She considers that the application 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 application and advises that an approval condition on the submission and implementation of drainage proposal is required for the application.
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective. Significant adverse impact on existing landscape resources arising from the proposed development is not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that all consultees have no comment on the application.

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) Director of Agriculture, Fisheries and Conservation; and
- (h) District Officer (North), Home Affairs Department.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (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 (Appendix VI)**

On 2.3.2021, the application was published for public inspection. During the statutory public inspection period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Designing Hong Kong Limited, Kadoorie Farm and Botanic Garden and one individual object to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; land is available within the “V” zone for Small House development; insufficient information demonstrate that the proposed development would not cause adverse drainage and sewerage impacts; and setting of undesirable precedent for other similar applications within the “AGR” zone.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for a proposed Small House on the Site zoned “AGR” on the OZP. The proposed Small House 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. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Ping Yeung is 44 while the 10-year Small House demand forecast for the same village is 1,035. According to the latest estimate by PlanD, about 4.9 ha (equivalent to 196 Small House sites) of land are available in the “V” zone of Ping Yeung for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the footprint of the proposed Small House falls entirely within the ‘VE’ of Ping Yeung.
- 11.3 The Site is situated in an area of rural landscape character predominated by village houses and fallow agricultural land. The proposed development is not incompatible with the surrounding environment (**Plan A-3**). CTP/UD&L, PlanD has no objection to the application as significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves construction of one Small House only, the application 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 footprint of the proposed Small House falls within the ‘VE’ of the Ping Yeung (**Plan A-2a**). While land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small

House demand of 1,079 Small Houses, such available land (about 4.9 ha or equivalent to 196 Small House sites) is capable to meet the 44 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, it is noted that the Site is the subject of a previously approved application (No. A/NE-TKL/438) submitted by the same applicant and the Small House grant is still under processing. In this regard, sympathetic consideration might be given to the application.

- 11.5 There are 13 similar applications for Small House development within the "AGR" zone in the vicinity of the Site (**Plan A-2a**). Five applications were approved between 2002 and 2013 (i.e. before a more cautious approach is adopted by the Board). Eight applications (No. A/NE-TKL/543 to 546, 599, 604, 627 and 628) were approved by the Committee (i.e. after a more cautious approach is adopted by the Board) mainly on sympathetic considerations that the proposed Small Houses situated in close proximity to the sites of approved Small House applications; and the proposed Small Houses were sandwiched by Small House applications and considered as an infill Small House development at the fringe of the 'VE' while a new village cluster was forming in the locality.
- 11.6 Regarding the public comments mentioned in paragraph 10 above, 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 above, 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 11.6.2025, 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 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 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 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 applicant.

### **14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 19.4.2021
<b>Appendix Ia</b>	Further Information received on 1.6.2021
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
<b>Appendix III</b>	Previous Application
<b>Appendix IV</b>	Similar s.16 Applications for Proposed House (NTEH – Small House) in the vicinity of the Site in the Ping Che and Ta Kwu Ling Area
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	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 the “V” zone of Ping Yeung for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos