

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-TKL/666 to 670

- Applicants** : (i) Mr. LAU Chi Wing (Application No. A/NE-TKL/666)
(ii) Mr. YEUNG Yat Man (Application No. A/NE-TKL/667)
(iii) Mr. LAU Chi Ming Banny (Application No. A/NE-TKL/668)
(iv) Mr. SHAW Shih Neng Alan (Application No. A/NE-TKL/669)
(v) Mr. LEE Kei Yen (Application No. A/NE-TKL/670)
All represented by Mr. HO Siu Wing
- Sites** : (i) Lot 546 S.C ss.1 in D.D. 77 (Application No. A/NE-TKL/666)
(ii) Lot 546 S.E ss.1 in D.D. 77 (Application No. A/NE-TKL/667)
(iii) Lot 546 S.A ss.1 in D.D. 77 (Application No. A/NE-TKL/668)
(iv) Lot 546 S.L ss.1 in D.D. 77 (Application No. A/NE-TKL/669)
(v) Lot 546 S.F ss.1 in D.D. 77 (Application No. A/NE-TKL/670)
All in Ping Che, Ta Kwu Ling, New Territories
- Site Areas** : (i) 104.4 m² (about) (Application No. A/NE-TKL/666)
(ii) 116.2 m² (about) (Application No. A/NE-TKL/667)
(iii) 113.4 m² (about) (Application No. A/NE-TKL/668)
(iv) 151.3 m² (about) (Application No. A/NE-TKL/669)
(v) 115.1 m² (about) (Application No. A/NE-TKL/670)
- 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

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants have been certified by the Vice-Chairman of Ta Kwu Ling District Rural Committee (TKLDRC) or their respective Indigenous Inhabitants Representative (IIR) in statutory declaration that they are indigenous villagers of Shan Kai Wat (Applications No. A/NE-TKL/666 and 668), Fung Wong Wu (Application No. A/NE-TKL/667), Lo Shue Ling (Application No. A/NE-TKL/669) and Lei Uk (Application No. A/NE-TKL/670) in Ta Kwu Ling Heung.

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).

1.2 Details 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 Layouts of the proposed Small Houses (including septic tanks) under Applications No. A/NE-TKL/666 to 670 are shown on **Drawings A-1 to A-5** respectively.

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

<u>Current Application</u>	<u>Previous Application</u>	<u>Date of Approval</u>
No. A/NE-TKL/666	No. A/NE-TKL/487	31.10.2014
No. A/NE-TKL/667	No. A/NE-TKL/529	6.11.2015
No. A/NE-TKL/668	No. A/NE-TKL/486	31.10.2014
No. A/NE-TKL/669	No. A/NE-TKL/537	22.1.2016
No. A/NE-TKL/670	No. A/NE-TKL/530	6.11.2015

1.5 Compared with the previously approved applications, there is no change to the major development parameters including the site areas and the footprints of the proposed Small Houses.

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

- (a) Application Forms with attachments received on 3.5.2021 (**Appendices Ia to Ie**)
- (b) Further Information received on 17.6.2021 (**Appendix If**)
(accepted and exempted from publication)

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 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 five previous planning applications for NTEH (Small House) developments approved between 2014 and 2016 (**Plan A-2a**). Since the applicants have forgotten to submit applications for extension of time for commencement of the Small House developments, those planning approvals lapsed subsequently. DLO/N would proceed the Small House grant applications after obtaining relevant 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/666 to 670 are the subject of previous applications No. A/NE-TKL/487, 529, 486, 537 and 530 respectively for the same use submitted by the same applicants as the current applications.

5.2 Two applications No. A/NE-TKL/486 & 487 were approved by the Rural and New Town Planning Committee (the Committee) in October 2014 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 “Village Type Development” (“V”) zones at the time of consideration; the proposed developments were not incompatible with the surrounding area; and significant adverse impacts on the surrounding areas were not anticipated. Applications No. A/NE-TKL/529, 530 and 537 were approved by the Committee between November 2015 and January 2016 after the adoption of a more cautious approach by the Board mainly on sympathetic consideration that the proposed Small Houses were in proximity to existing village houses and approved Small House applications though the land available within the “V” zones was able to meet the outstanding applications at the time of consideration. These planning permissions lapsed between October 2018 and January 2020. Compared with the previously approved applications, there is no change to the major development parameters including the site areas and the footprints 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 20 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Sites (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. They were all approved.

6.2 A total of 13 applications were approved with conditions by the Committee between June 2007 and February 2015 (i.e. before the adoption of a more cautious approach by the Board) mainly on the considerations that the applications generally complied with the Interim Criteria and there was a general shortage of land within the “V” zones of Ping Che village cluster 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 Two applications (No. A/NE-TKL/528 and 536) were approved by the Committee between November 2015 and January 2016 (i.e. after the adoption of a more cautious approach) 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 five applications No. A/NE-TKL/630, 649, 650, 651 and 652 were approved by the Committee in December 2019 and December 2020 mainly for the reason of being the subjects of previously approved applications and the processing of the Small House grants were 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, UAV photo on Plan A-3 and site photos on Plans A-4a and A-4b)

7.1 The Sites are:

- (a) generally flat and overgrown with shrubs and grass, while the Site under application No. A/NE-TKL/669 is fenced off and grown with fruit trees;
- (b) located to the west of the “V” zones 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 fringe landscape character predominated by vacant/unused land, temporary domestic structures and village houses;
- (b) to the 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 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;
- (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, vacant land and a car service centre.

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%	- -	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Sites and footprints of the proposed Small Houses fall entirely within the ‘VE’ of Ping Che.
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 the Small House demand in Ping Che village cluster ² : about 5.28 ha (equivalent to 211 Small House sites). The outstanding Small House applications for Ping Che village cluster are 51 ³ while the 10-year Small House demand forecast for the same village cluster is 160.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zones of Ping Che village cluster: about 3.72 ha (equivalent to 148 Small House sites) (Plan A-2b).
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 the Sites possess potential for agricultural

² Ping Che village cluster is covered by three areas, i.e. Ping Che, Ping Che Kat Tin and Ping Che Yuen Ha. Each area has its own ‘VE’ and ‘V’ zones.

³ Among the 51 outstanding Small House applications in the Ping Che village cluster, 18, 27 and 6 applications are from Ping Che, Ping Che Kat Tin and Ping Che Yuen Ha respectively. Among those 51 outstanding Small House applications in the entire village cluster, 28 of them fall within the “V” zones and 23 straddle or outside the “V” zones. For those 23 applications straddling or outside the “V” zones, 4 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		- The proposed developments are not incompatible with the surrounding areas predominated by village houses, active farmlands and vacant land (Plan A-2a).
6.	Within Water Gathering Grounds?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications.
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 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. - Notwithstanding the above, the applications involve construction of limited number of Small Houses. She considers that the applications can be tolerated unless being rejected on other grounds.
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective. Significant adverse landscape impact arising from the developments are not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that the incumbent North District Council member of the subject constituency, the Vice-Chairman of TKLDRC, 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) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CE/C, WSD;
- (e) CTP/UD&L, PlanD;
- (f) CE/MN, DSD;
- (g) D of FS;
- (h) DAFC; and
- (i) DO(N), HAD.

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

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

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 11.5.2021, the applications were published for public inspection. During the statutory public inspection period, three public comments were received for each of the applications. 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 and commercial villa developments are suspected; their approval would encourage the development of a new village cluster outside the “V” zones; and the proposed Small Houses have no access to proper drainage.

11. Planning Considerations and Assessments

- 11.1 The applications are for a proposed Small House on each of the Sites zoned “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 agricultural activities are active in the vicinity and the Sites possess potential for agricultural rehabilitation.
- 11.2 DLO/N, LandsD advises that the Sites fall within the ‘VE’ of Ping Che. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for the Ping Che village cluster is 51 (including 18 for Ping Che, 27 for Ping Che Kat Tin and 6 for Ping Che Yuen Ha) while the 10-year Small House demand forecast for the same village cluster is 160. According to the latest estimate by PlanD, there are a total of about 3.72 ha (equivalent to 148 Small House sites) of land available in the “V” zones of the entire Ping Che village cluster for Small House development.
- 11.3 The Sites are situated in an area of rural fringe landscape 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 entirely incompatible with the surrounding areas predominated by village houses, hard-paved area with temporary structures, vacant lands and active farmlands (**Plan A-3**). CTP/UD&L, PlanD has no objection to the applications as significant adverse impact arising from the proposed developments is not anticipated. C for T considers that Small House developments should be confined within the “V” zones as far as possible but given that the proposed developments involve construction of limited number of Small Houses, the applications could be tolerated. Other relevant Government departments, including CE/MN of DSD, CE/C of WSD and D of FS, have no objection to the applications.
- 11.4 Regarding the Interim Criteria, while land available within the “V” zones of entire Ping Che village cluster is insufficient to fully meet the future total Small House demand of 211 Small Houses, such available land (about 3.72 ha or equivalent to 148 Small House sites) is capable to meet the total 51 outstanding Small House applications in the village cluster. As mentioned in paragraph 11.2 above, Ping Che village cluster comprises three areas with separate ‘VE’ each covered by their respective “V” zones (**Plan A-1**), and the Sites fall within only the ‘VE’ of Ping Che. If only “V” zones of Ping Che are taking into account, about 1.21 ha (equivalent to 48 Small House sites) of land is still available to meet the 18 outstanding Small House applications for Ping Che (**Plan A-2b**). 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” zones for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Sites are the subject of previously approved planning applications (No. A/NE-TKL/486, 487, 529, 530 and 537) 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 might be given to the current applications.

- 11.5 All 20 similar applications for Small House development in the vicinity of the Sites were approved (**Plan A-2a**). The circumstances of the current applications are similar to applications No. A/NE-TKL/630 and 649 to 652 to the north and east of the Sites. Those applications were also approved by the Committee in December 2019 and December 2020 mainly for the reason of being the subject of previously approved applications and the processing of the Small House grants were already at an advanced stage.
- 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 permissions shall be valid until 25.6.2025, 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 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 Ie	Application Forms with attachments received on 3.5.2021
Appendix If	Further Information received on 17.6.2021
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-5	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zones of Ping Che for Small House Development
Plan A-3	UAV Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**