

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

**APPLICATIONS NO. A/NE-TKL/703 to 705**

<b><u>Applicants</u></b>	: (i) Mr. LAM Chi Keung (ii) Mr. LAM Thomas (iii) Mr. LAU Chi Wo All represented by Mr. HO Siu Wing	(Application No. A/NE-TKL/703) (Application No. A/NE-TKL/704) (Application No. A/NE-TKL/705)
<b><u>Sites</u></b>	: (i) Lot 546 S.H ss.1 in D.D. 77 (ii) Lot 546 S.J ss.1 in D.D. 77 (iii) Lot 546 S.K ss.1 in D.D. 77 All in Ping Che, Ta Kwu Ling, New Territories	(Application No. A/NE-TKL/703) (Application No. A/NE-TKL/704) (Application No. A/NE-TKL/705)
<b><u>Site Areas</u></b>	: (i) 105.7 m <sup>2</sup> (about) (ii) 105.9 m <sup>2</sup> (about) (iii) 110.5 m <sup>2</sup> (about)	(Application No. A/NE-TKL/703) (Application No. A/NE-TKL/704) (Application No. A/NE-TKL/705)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)	
<b><u>Plan</u></b>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14	
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)	
<b><u>Applications</u></b>	: Proposed House (New Territories Exempted House (NTEH) – Small House)	

**1. The Proposals**

1.1 The applicants, who are indigenous villagers in Ta Kwu Ling Heung<sup>1</sup>, seek planning permission to build a 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).

1.2 Details of each of the proposed NTEHs (Small Houses) are as follows:

Total Floor Area	: 195.09 m <sup>2</sup>
Number of Storeys	: 3

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants have been certified by their Indigenous Inhabitants Representative (IIR) in statutory declaration that they are indigenous villagers of Shan Kai Wat in Ta Kwu Ling Heung.

Building Height : 8.23 m  
Roofed Over Area : 65.03 m<sup>2</sup>

1.3 Layouts of the proposed Small Houses (including septic tanks) under Applications No. A/NE-TKL/703 to 705 are shown in **Drawings A-1 to A-3** 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/703	No. A/NE-TKL/499	6.2.2015
No. A/NE-TKL/704	No. A/NE-TKL/501	6.2.2015
No. A/NE-TKL/705	No. A/NE-TKL/536	22.1.2016

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

- (a) Application Forms with attachments received on 8.7.2022 (**Appendices Ia to Ic**)
- (b) Further Information (FI) received on 9.8.2022 (**Appendix Id**)

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed the Application Forms and FI at **Appendices Ia to Id**, as summarised below:

- (a) the proposed Small Houses will be built on vacant agricultural land;
- (b) there are no other land available for the proposed Small House developments;
- (c) there are other similar Small Houses approved in the vicinity of the Sites;
- (d) the Sites are the subject of three previously approved planning applications for Small House developments (**Plan A-2a**). Since the applicants' consultant did not submit applications for extension of time for commencement of proposed Small House developments, those planning approvals lapsed subsequently and hence require fresh applications; and
- (e) the applicants of applications No. A/NE-TKL/703 and 704 are currently not the land owners. Nevertheless, they will acquire the respective lots for their Small House development upon obtaining the planning approvals.

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

### Applications No. A/NE-TKL/703 and 704

- 3.1 The applicants are not “current land owners” but have complied with the 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) by obtaining the consents of the current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

Applications No. A/NE-TKL/705

- 3.2 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 Applications**

- 5.1 The Sites under applications No. A/NE-TKL/703, 704 and 705 are the subject of previous applications No. A/NE-TKL/499, 501 and 536 respectively for the same use.
- 5.2 The applicants of the applications No. A/NE-TKL/499 and 501 are the same as the current applications No. A/NE-TKL/703 and 704 respectively, which were approved by the Rural and New Town Planning Committee (the Committee) on 6.2.2015 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 “Village Type Development” (“V”) zones at the time of consideration; the proposed Small Houses were in proximity to existing village houses and approved Small House applications; and significant adverse impacts on the surrounding areas were not anticipated. The planning permissions lapsed on 7.2.2019. 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 The applicant of the application No. A/NE-TKL/536 was a different applicant as the current application No. A/NE-TKL/705, which was approved by the Committee 22.1.2016 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. The planning permission lapsed on 23.1.2020.
- 5.4 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 27 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Sites since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-2a**). 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 consideration 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 Four applications (No. A/NE-TKL/528, 529, 530 and 537) were approved by the Committee between November 2015 and January 2016 (i.e. after the adoption of a more cautious approach) mainly on sympathetic consideration 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 implementation of which are forming a new village cluster in the locality. The remaining 10 applications (No. A/NE-TKL/630, 649 to 652, 666 to 670) were approved by the Committee in December 2019 and June 2021 mainly for reason of being the subjects of previously approved applications / the processing of the Small House grants was already at an advanced stage.

6.4 Details of the similar applications are summarised at **Appendix IV**.

## **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 flat with overgrown grass, partly occupied by active farmland;
- (b) located to the west of the “V” zones of Ping Che; and
- (c) accessible via 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 characterised by vacant/unused land, temporary domestic structures and village houses;
- (b) to the immediate east is hard-paved area with village houses either completed or under construction in the “V” zones of Ping Che;
- (c) 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; and
- (d) to the west are some temporary domestic structures.

## **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 <sup>2</sup> : about 5.1 ha (equivalent to 205 Small House sites). The outstanding Small House applications for Ping Che village cluster are 45 <sup>3</sup> 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 3.66 ha (equivalent to 147 Small House sites) ( <b>Plan A-2b</b> ).
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 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.

<sup>2</sup> 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.

<sup>3</sup> Among those 45 outstanding Small House applications in the entire village cluster, 31 of them fall within the “V” zones and 14 straddle or outside the “V” zones. For those 14 applications straddling or outside the “V” zones, 7 of them have obtained valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
5.	Compatible with surrounding area/development?	✓		- The proposed developments are not incompatible with the surrounding areas predominated by temporary structures, Small Houses, clusters of tree groups ( <b>Plan A-2a</b> ).
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) considers that the 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.
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?		✓	- 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 Chairman of Fung Shui Area Committee, the incumbent North District Council member of the subject constituency, the 1 <sup>st</sup> Vice-Chairman

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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.

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

On 15.7.2022, 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 individual object to the applications mainly on the grounds that land is still available in the “V” zones to meet the outstanding Small House applications for Ping Che; approval of the application would cause adverse traffic and environmental impacts to the surrounding areas and increase fire risk, thereby affecting the quality of life and safety of nearby residents; and the limited land resources should be better utilised for the production of medium and high rise developments that are connected to a proper sewerage system.

## **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 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, vacant land and temporary structures (**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 adverse comments/ no objection to the applications.

- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House for Ping Che village cluster is 45 while the 10-year Small House demand forecast is 160. Based on PlanD's latest estimate, about 3.66 ha (equivalent to 147 Small House sites) is available within the "V" zone concerned. While the amount of land available within the "V" zones of the Ping Che village cluster is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications (**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 under applications (No. A/NE-TKL/703 and 704) are the subject of previously approved planning applications (No. A/NE-TKL/499 and 501) for the same use submitted by the same applicants. While the Site under application (No. A/NE-TKL/705) is the subject of previously approved application (No. A/NE-TKL/536) submitted by a different applicant, it is noted that the Site as well as the other two Sites are located in close proximity to existing village houses and similar applications approved for Small House developments, the implementation of which are forming a new village cluster in the locality. 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/ consideration to be reactivated upon obtaining of planning approvals by the applicants. In this regard, sympathetic consideration might be given to the current applications.
- 11.4 All 27 similar applications for Small House development in the vicinity of the Sites were approved (**Plan A-2a**). The planning circumstances of the applications (No. A/NE-TKL/703 and 704) are similar to those ten applications (No. A/NE-TKL/630, 649 to 652, 666 to 670) to the north and south of the Sites which were approved by the Committee mainly for the reason of being the subject of previously approved applications. The planning circumstances of the application No. A/NE-TKL/705 are similar to applications (No. A/NE-TKL/528, 529, 530 and 537) which were approved by the Committee mainly on sympathetic considerations that the proposed Small Houses situated in proximity to the existing village houses and approved Small House applications and the implementation of which are forming a new village cluster in the locality.
- 11.5 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 applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 26.8.2026, 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 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**

<b>Appendices Ia to Ic</b>	Application Forms with attachments received on 8.7.2022
<b>Appendix Id</b>	FI received on 9.8.2022
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments

<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawings A-1 to A-3</b>	Layout Plans
<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” zones of Ping Che for Small House Development
<b>Plan A-3</b>	UAV Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2022**