

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/718A

<u>Applicants</u>	:	Messrs. CHAN Wah Kong, CHAN Wai Man, CHAN Koon Chung and CHAN Wah Keung represented by Mr. CHAN Chu Hang, Arden
<u>Sites</u>	:	Lots 164 S.A ss.3, S.A ss.4, S.A ss.5, S.B ss.3 S.F, S.B ss.1 S.A and S.B ss.3 S.C in D.D. 79, Ping Yeung Village, Ta Kwu Ling, New Territories
<u>Site Area</u>	:	About 540m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Four Houses (New Territories Exempted Houses (NTEHs) – Small Houses)

1. The Proposal

1.1 The applicants, who claim themselves as indigenous villagers of Ping Yeung Village¹, seek planning permission to build four NTEHs (Small Houses) on the application sites (the Sites) in Ping Yeung Village (**Plans A-1 and A-2a**). The Sites fall within an area zoned “AGR” on OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘House (NTEH only)’ in the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the application (**Plan A-2a**) are as follows:

Applicant	Lot No.	House No.
CHAN Wah Kong	Lot 164 S.A ss.3	H1
CHAN Koon Chung	Lot 164 S.A ss.4	H2
CHAN Wai Man	Lots 164 S.A ss.5 and S.B ss.3 S.F	H3
CHAN Wah Keung	Lots 164 S.B ss.1 S.A and S.B ss.3 S.C	H4

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants are indigenous villagers of Ping Yeung Village and their eligibility for Small House grants has been ascertained.

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

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

- 1.3 Layout of the proposed Small Houses (including septic tanks) are shown in **Drawings A-1 to A-4**. The applicants indicate that the uncovered areas of the Sites are for circulation purpose.
- 1.4 The Sites are the subject of four previous applications (No. A/NE-TKL/543 to 546) each for a proposed Small House development submitted by the same applicants approved by the Rural and New Town Planning Committee (the Committee) on 14.10.2016. The planning permissions lapsed on 15.10.2020. Details are set out in paragraph 5.1 below.
- 1.5 In support of the application, the applicants have submitted the Application Form with attachments (**Appendix I**) on 14.3.2023 and Further Information on 30.5.2023 (**Appendix Ia**).
- 1.6 On 5.5.2023, the Committee agreed to defer a decision on the application as requested by the applicants for two months.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Application Form at **Appendix I**, and summarized as follows:

- (a) the Sites fall within the village ‘environs’ (‘VE’) of Ping Yeung Village; and
- (b) the Sites are the subject of four previous approved applications (No. A/NE-TKL/543 to 546) submitted by the same applicants which had lapsed, and a fresh application is therefore needed.

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

The applicants are the sole “current land owner” of the 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 are subject of four previous applications (No. A/NE-TKL/543 to 546) each for a proposed Small House development (i.e. H1 to H4). The applications were approved by the Committee on 14.10.2016 (i.e. after the formal adoption of a more cautious approach by the Board since August 2015²) on the grounds that there were approved Small House applications in the vicinity of the Sites; the proposed developments were not incompatible with the surrounding land uses; and no adverse impacts were anticipated. Compared with the previous applications, major planning parameters including footprints of the proposed Small Houses remain the same.
- 5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

6. **Similar Applications**

- 6.1 There have been 13 similar applications for Small House development in the vicinity of the Sites since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Six applications (No. A/NE-TKL/220, 240, 282, 327, 438 and 440) were approved by the Committee between October 2002 and August 2013 before the formal adoption of a more cautious approach² by the Board since 2015 mainly on the grounds 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.
- 6.3 Five applications (No. A/NE-TKL/599, 604, 627, 628 and 664) were approved by the Committee between October 2018 and June 2021 after the formal adoption of a more cautious approach² 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’; a new village cluster was forming in the locality; and being the subject of previously approved applications.
- 6.4 Application No. A/NE-TKL/383 was rejected by the Committee in December 2012 mainly on considerations that the application was not in line with the planning intention of the “AGR” zone; the application did not comply with the Interim Criteria in that the proposed houses were entirely outside both the village ‘environs’ and the “V” zone of recognized villages; and adverse landscape and drainage impacts on the surrounding areas were anticipated.
- 6.5 The remaining application No. A/NE-TKL/660 was rejected by the Committee in August 2021 after the formal adoption of a more cautious approach by the Board mainly on considerations that the application was not in line with the planning intention of the “AGR”

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications provided by LandsD.

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 similar applications are summarized at **Appendix IV** and **Plan 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) currently vacant and overgrown with grass;
- (b) located to the southwest of the “V” zone of Ping Yeung; and
- (c) accessible via a local track leading to Ping Yuen Road.

7.2 The surrounding areas are predominantly rural in character with village houses, temporary structures, open storages, vegetated areas and cluster of tree groups.

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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Sites - Footprint of the proposed four Small House	– –	100% 100%	- The Sites and the footprint of the proposed Small Houses fall entirely within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <p>- The Sites</p> <p>- H1: H2: H3: H4:</p> <p>- Footprint of the proposed four Small House</p> <p>- H1: H2: H3: H4:</p>	<p>74%</p> <p>100% 85% 45% 74%</p> <p>100% 99% 61% 92%</p>	<p>26%</p> <p>0% 15% 55% 26%</p> <p>0% 1% 39% 8%</p>	<p>- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Sites and footprint of H1 fall within the 'VE' of Ping Yeung Village while H2 to H4 fall partly (more than 50%) within the 'VE' of Ping Yeung Village.</p>
3.	<p>Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p> <p>Sufficient land in "V" zone to meet outstanding Small House application?</p>	<p>✓</p> <p>✓</p>	<p>✓</p> <p></p>	<p><u>Land Required</u></p> <p>- Land required to meet the Small House demand in Ping Yeung: about 26.7 ha (equivalent to 1,069 Small House sites). The outstanding Small House applications for Ping Yeung are 34³ while the 10-year Small House demand forecast for the same village is 1,035.</p> <p><u>Land Available</u></p> <p>- Land available to meet the Small House demand within the "V" zone of Ping Yeung: about 4.6 ha (equivalent to 184 Small House sites).</p>
4.	Compatible with the planning intention of "AGR" zone?		✓	<p>- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application 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 sources are available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc.</p>
5.	Compatible with surrounding area/development?	✓		<p>- The proposed development is not incompatible with the surrounding areas predominated by village houses, temporary structures, open storages, vegetated areas and clusters of tree groups (Plan A-2a).</p>

³ Among the 34 outstanding Small House applications, 18 of them fall within the "V" zone and 16 straddle or outside the "V" zone. For those 16 applications straddling or being outside the "V" zone, 7 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within Water Gathering Grounds?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
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.
9.	Traffic impact?	✓		<p>- Commissioner for Transport (C for T) has reservation on the application and advises that Small House developments 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 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 only involves construction of four Small Houses could be tolerated.</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 landscape impact arising from the developments are not anticipated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that four Indigenous Inhabitant Representatives (IIRs) of Ping Yeung object to the application on the grounds that the proposed development affects the fung shui of the area. The Chairman of Fung Shui Area Committee and the incumbent North District Councilor of N16 Constituency have no comment on the application. TKLDRC and the Resident Representative (RR) of Ping Yeung did not reply.

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) CTP/UD&L, PlanD;
- (e) CE/MN, DSD;
- (f) DAFC;
- (g) D of FS; and
- (h) DO(N), HAD.

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

On 24.3.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual objects to the application mainly on the grounds that land is still available within “V” zone to meet the future Small House demand.

11. Planning Considerations and Assessments

11.1 The application is for four proposed Small Houses at the Sites zoned “AGR” on the OZP. 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. DAFC does not support the application from the agricultural point of view as the Sites possess potential for agricultural rehabilitation. Active agricultural activities are found 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.

11.2 The Sites are situated in an area of rural landscape character predominated by village houses, temporary structures, open storages, vegetated areas and cluster of tree groups. The proposed development is not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application as significant adverse impact on

the existing landscape resources arising from the proposed development 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 development only involves construction of four Small Houses, the application could be tolerated. Other relevant government departments, including DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no adverse comment on / no objection to the application.

- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House applications for Ping Yeung Village is 34 while the 10-year Small House demand forecast is 1,035. Based on PlanD’s latest estimate, about 4.6 ha (equivalent to about 184 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zones of Ping Yeung Village 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 formally adopted a more cautious approach in approving applications for Small House development since August 2015. 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 four previously approved applications (No. A/NE-TKL/543 to 546) submitted by the same applicants. There are approved Small House applications in the vicinity of the Sites. In this regard, sympathetic consideration might be given to the application.
- 11.4 There are 13 similar applications for Small House development within the “AGR” zone in the vicinity of the Sites (**Plan A-2a**), of which 5 (No. A/NE-TKL/599, 604, 627, 628 and 664) were approved by the Committee between 2018 and 2021. The planning circumstances of the application are similar to application (No. A/NE-TKL/664) to the east of the Sites which was approved by the Committee in 2021 mainly for the reason of being the subject of a previously approved application submitted by the same applicant in that the Small House grant was still under processing and hence sympathetic consideration was given to the applicant.
- 11.5 Regarding the public comments objecting to the application as detailed in paragraph 10 above, government departments’ comments and planning assessments above are relevant. Moreover, the public concern on the proposed development affecting local fung shui is not a planning consideration of the Board.

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 28.7.2027, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- 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

Appendix I	Application Form with attachments received on 14.3.2023
Appendix Ia	Further Information received on 30.5.2023
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-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 Yeung Village for Small House Development
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

PLANNING DEPARTMENT

JULY 2023