

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

**APPLICATION NO. A/NE-TKL/725**

<b><u>Applicant</u></b>	:	Mr. CHAN Kai For represented by Glister Engineering Consultants Company
<b><u>Site</u></b>	:	Lot 234 S.B ss.5 in D.D. 79, Ping Yeung Village, New Territories
<b><u>Site Area</u></b>	:	174m <sup>2</sup>
<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>Application</u></b>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

1.1 The applicant, who claims to be an indigenous villager of Ping Yeung Village<sup>1</sup>, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Ping Yeung Village (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the OZP. 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). The Site is currently vacant and covered with vegetation.

1.2 Details of the proposed NTEH (Small House) are as follows:

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

1.3 Layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as a garden area.

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claims himself to be an indigenous villager of Ping Yeung Village. His eligibility for Small House grant is yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted an Application Form with attachments (**Appendix I**).

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

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

- (a) the applicant is the registered owner of the Site. He is an indigenous villager and entitled to Small House grant in accordance with the Small House Policy;
- (b) the Site falls largely within the village environs ('VE') of Ping Yeung Village. The proposed Small House development is compatible with the surrounding environment and land uses; and
- (c) there were similar applications approved in the vicinity.

## **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 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**

There is no previous application for the Site.

## **6. Similar Applications**

- 6.1 There are five similar applications (**Plan A-2a**) for Small House development in the vicinity of the Site within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Three applications were considered by the Committee before the Board's formal adoption of a more cautious approach since August 2015<sup>2</sup>. Applications (No. A/NE-TKL 220 and 327) were approved with conditions by the Committee on 25.10.2002 and 6.11.2009 respectively, mainly on the grounds that there was a general shortage of land within "V" zone of Ping Yeung Village in meeting the Small House demand at the time of consideration; the proposed Small House developments were not incompatible with the surrounding rural and village environment; and the proposed Small Houses would unlikely

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<sup>2</sup> Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House application provided by LandsD.

generate significant adverse impacts to the surrounding area. Application No. A/NE-TKL/383 was rejected by the Committee on 21.12.2012 mainly on the grounds that the proposed Small Houses were not in line with the planning intention of the “AGR” zone; and the proposed developments did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the proposed Small Houses were entirely outside both the ‘VE’ and the “V” zone of recognised village.

6.3 The remaining two (No. A/NE-TKL/619 and 660) were rejected by the Committee on 2.8.2019 and 13.8.2021 respectively after the formal adoption of a more cautious approach since August 2015, mainly on the grounds that the proposed Small House developments were not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Ping Yeung Village where land was primarily intended for Small House Development.

6.4 Details of the similar applications are summarized at **Appendix III**.

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

7.1 The Site is:

- (a) vacant and covered with vegetation; and
- (b) accessible via a local village access (Ping Yuen Road) leading to Ping Che Road.

7.2 The surrounding areas are:

- (a) predominantly rural in character with village houses, tree clusters and vegetated land;
- (b) to the east is the village proper of Ping Yeung Village; and
- (c) to the immediate south is a sewage pumping station.

## **8. Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## **9. Comments from Relevant Government Departments**

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

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

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
	- Footprint of the proposed Small House	—	100%	
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small House	97%  100%	3%  —	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Site falls largely within the ‘VE’ of Ping Yeung Village while footprint of the proposed Small House falls entirely within the ‘VE’ of Ping Yeung Village.
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 Village village cluster: about 26.7 ha (equivalent to 1,069 Small House sites). The outstanding Small House applications for Ping Yeung Village village cluster are 34 <sup>3</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 Village village cluster: about 4.6 ha (equivalent to 183 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 application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources 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 development is not incompatible with the surrounding areas predominated by village houses, clusters of tree groups and vegetated area.
6.	Within Water Gathering Grounds?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

<sup>3</sup> 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 outside the “V” zone, 6 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>
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 objection in-principle 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?	✓		<ul style="list-style-type: none"> <li>- 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 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.</li> <li>- Notwithstanding the above, the application only involves construction of one Small House could be tolerated unless it is rejected on other grounds.</li> </ul>
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 development is not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that one

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
				<p>Indigenous Inhabitant Representative (IIR) of Ping Yeung supports the application.</p> <p>- The incumbent North District Councilor of N16 Constituency and two IIRs of Ping Yeung have no comment on the application.</p> <p>- The Ta Kwu Ling District Rural Committee, one IIR of Ping Yeung and the Resident Representative (RR) of Ping Yeung did not reply to the local consultation.</p>

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Detailed comments from government departments are at **Appendix IV**.

- (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 V)**

On 25.4.2023, 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. One individual objects to the application mainly on the grounds that there is no previous planning approval at the Site; there is a sewerage pumping station adjacent to the Site, the proposed Small House might generate additional demand for a larger pumping station; and land is still available within “V” zone to meet the demand of outstanding Small House applications.

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

11.1 The application is for a proposed Small House on the Site which falls entirely within “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 Site possesses 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. There is no strong planning justification in the current submission for a departure from the planning intention.

- 11.2 The Site is situated in an area of rural landscape character predominated by village houses, tree clusters and vegetated land. 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 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, 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 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 183 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zone of the 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 development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.4 There are five similar applications for Small House development in the vicinity of the Site. Among them, two applications were considered after the Board’s formal adoption of a more cautious approach since August 2015. Applications No. A/NE-TKL/619 and 660 were rejected by the Committee on 2.8.2019 and 13.8.2021 respectively, mainly on the grounds that the applications were not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Ping Yeung Village where land was primarily intended for Small House Development. The planning circumstances of the current application are similar to these two rejected applications.
- 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.

## **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, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “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 Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village

cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.6.2027, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

**13. Decision Sought**

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

**14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 18.4.2023
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	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 Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos