

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

**APPLICATION NO. A/NE-TKL/760**

- Applicant** : Mr. CHAN Peter represented by Mr. HUI Kwan Yee
- Site** : Lot 1094 S.A ss.4 in D.D. 79, Ping Yeung Village, Ta Kwu Ling, New Territories
- Site Area** : 112.2m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Planning (OZP) No. S/NE/TKL/14
- Zonings** : (i) “Green Belt” (“GB”) (about 56% of the Site)  
(ii) “Village Type Development” (“V”) (about 44% of the Site)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

1.1 The applicant, who claims himself as an indigenous villager of Ping Yeung<sup>1</sup>, seeks planning permission to build a 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 “GB” (about 56%) and “V” (about 44%) on the OZP. According to the Notes of the OZP, ‘House (NTEH Only)’ is a Column 1 use always permitted within the “V” zone, while ‘House’ is a Column 2 use within the “GB” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently covered with trees (**Plans A-3 and A-4**).

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 does not have any proposal for the uncovered area at the remaining part of

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the eligibility of the applicant of the application for Small House concessionary grant is yet to be ascertained.

the Site. The Site is not connected to any vehicular access.

- 1.4 In support of the application, the applicant submitted an Application Form with attachment received on 6.6.2024 (**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 Site is currently vacant for housing use;
- (b) the applicant has no alternative site for Small House development; and
- (c) there are similar Small House developments in the vicinity of the Site.

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

The applicant is the sole “current land owner”. 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. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant. The relevant assessment criteria are at **Appendix III**.

## **6. Previous Application**

The Site is not the subject of any previous application.

## **7. Similar Applications**

- 7.1 There are three similar applications (No. A/NE-TKL/175, 239 and 148) for proposed house (NTEH – Small House) partly within the same “GB” and “V” zones in the vicinity of the Site in the Ping Che and Ta Kwu Ling area since the first promulgation of the Interim Criteria on 24.11.2000.

- 7.2 Applications No. A/NE-TKL/175 and 239<sup>2</sup> involving the same site were rejected by the

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<sup>2</sup> All the three similar applications were considered by the Committee before the formal adoption of a more cautious approach in considering Small House application by the Board since August 2015. Among others, in considering

Rural and New Town Planning Committee (the Committee) of the Board on 7.9.2001 and 15.8.2003 respectively mainly on the grounds that the site was located in the immediate vicinity of a well-vegetated knoll and a large piece of fallow agricultural land; located far away from the existing village cluster of Ping Yeung and there was no residential development in the vicinity of the site; the proposed developments were not in line with the planning intention of “GB” zone; did not comply with the Interim Criteria in that only a small portion of the application site fell within the village ‘environ’ (‘VE’) of Ping Yeung; and approval of the applications would set an undesirable precedent for other similar applications.

- 7.2 Application No. A/NE-TKL/248<sup>2</sup> was approved by the Committee on 30.1.2004 mainly on considerations that the application generally complied with the Interim Criteria in that there was a general shortage of land within the “V” zone of the same village in meeting the future Small House demand at the time of consideration and more than 50% of the footprint of the proposed Small House fell within the “V” zone; the proposed Small House development was generally in line with the TPB-PG No. 10; and the concerned Government departments had no objection to/comments on the application.
- 7.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

## **8. The Site and its Surrounding Areas (Plans A-2a to A-4)**

- 8.1 The Site is:
- (a) among tree clusters and covered with trees; and
  - (b) not connected to any vehicular access.
- 8.2 The surrounding areas are rural in character comprising tree clusters, active/fallow agricultural lands and vegetation. No residential development/structure is found in the immediate vicinity. The cluster of village houses within the “V” zone of Ping Yeung is located to the further west.

## **9. Planning Intentions**

- 9.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.2 The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

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whether there is a general shortage of land in meeting Small House demand under that approach, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

## 10. Comments from Relevant Government Departments

10.1 The applications have 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?  - Footprint of the proposed Small House  - The Site	56.5%  44%	43.5%  56%	- 43.5% of the footprint of the proposed Small House falls within “GB” zone.  - 56% of the Site falls within “GB” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	84%  67%	16%  33%	Majority of the Site falls within the ‘VE’ of Ping Yeung.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?          Sufficient land in “V” zone to meet outstanding Small House applications?	          ✓	✓	<u>Land Required</u> - Land required to meet Small House demand in Ping Yeung: about 26.6 ha (equivalent to 1,065 Small House sites). The outstanding Small House applications of Ping Yeung are 30 <sup>3</sup> while the 10-year Small House demand forecast for the same village cluster is 1,035.  <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Ping Yeung: about 4.5 ha (equivalent to 180 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within “GB” zone.  - The Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application from nature

<sup>3</sup> Among the 30 outstanding Small House applications, 17 fall within the “V” zone, and 13 straddle or fall outside the “V” zone. For those 13 applications straddling or falling outside the “V” zone, none of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				conservation perspective.
5.	Compatible with surrounding area/development?		✓	The proposed Small House is not entirely compatible with the surrounding areas which are predominantly rural in character comprising tree clusters, active/fallow agricultural lands and vegetation. There is no residential development/structure in the immediate vicinity ( <b>Plans A-2a, A-3 and A-4</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Environmental and sewerage impacts?		✓	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.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	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.
10.	Traffic impact?	✓		Commissioner for Transport (C for T) 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 an undesirable precedent case for similar applications in the future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, the application only involves development of one Small House could be tolerated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection to the application.
12.	Landscaping impact?	✓		Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD) has concern that the approval of the application may further alter the landscape character and degrade the landscape quality of the “GB” zone ( <b>Plans A-3 and A-4</b> ).
13.	Local objections conveyed by District Officer?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Details of comments from government departments are at **Appendix V**.

- (a) District Lands Officer/North, Lands Department (DLO/N of LandsD);
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L of PlanD;
- (e) CE/MN of DSD;
- (f) DAFC;
- (g) D of FS;
- (h) District Officer (North), Home Affairs Department.

10.3 The following government departments have no objection to/no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C of WSD);
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Project Manager (North), North Development Office, Civil Engineering and Development Department.

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

On 14.6.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received for the application. A member of the North District Council indicates no comment. Kadoorie Farm & Botanic Garden Corporation and an individual object to the application mainly on the grounds that there was no previously approved application at the Site; land is still available within the “V” zone of Ping Yeung; the application is unlikely to be in line with the planning intention of the “GB” zone; rejection reasons for a similar application (No. A/NE-TKL/239) may be applicable to this application, i.e. the Site was located far away from the exiting village cluster of Ping Yeung and no residential development/structure was found in the vicinity of the Site; and the application does not comply with the Interim Criteria.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for a proposed Small House development at the Site partly zoned “GB” (about 56%) and partly zoned “V” (about 44%) on the OZP. Although the proposed development is always permitted within “V” zone, it is not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets, and there is a general presumption against development within this zone. There is no strong planning justification in the current submission for a departure from the planning intention of the “GB” zone.
- 12.2 Regarding the Interim Criteria (**Appendix II**), according to DLO/N of LandsD, the number of outstanding Small House applications for Ping Yeung is 30 while the 10-year Small House demand forecast is 1,035. Based on PlanD’s latest estimate, about 4.5 ha (equivalent to 180 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Ping Yeung is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among 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. In this regard, 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.
- 12.3 The Site is situated in an area of rural character comprising tree clusters, active/fallow agricultural lands and vegetation. The proposed Small House is considered not entirely compatible with the surrounding areas and there is no residential development/structure found in immediate vicinity. While the Site is covered with dense vegetation with existing trees, the applicant did not provide basic information on existing trees within the Site and along the site boundary, proposed tree treatments and mitigation measures as requested by CTP/UD&L of PlanD. CTP/UD&L of PlanD has concern that approval of the application may further alter the landscape character and degrade the landscape quality of the “GB” zone. The proposed Small House development is not in line with TPB PG-No. 10 (**Appendix III**) in that there is a general presumption against development in a “GB” zone; the proposed Small House development is not entirely compatible with the character of the surrounding areas; and the Site is not in close proximity to the existing cluster of village houses located to the further west.
- 12.4 C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that the application involves one Small House only, the application could be tolerated from traffic impact perspective. Other relevant government departments consulted, including DAFC, DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no objection to or no adverse comment on the application.
- 12.5 There were three similar applications within the same “GB” and “V” zones in the vicinity of the Site. Applications No. A/NE-TKL/157 and 239 involving the same site were rejected by the Committee in 2001 and 2003 mainly on the grounds that they were located far away from the existing village cluster of Ping Yeung and there was no residential development in the vicinity of the site; the proposed developments were not in line with the planning intention of “GB” zone; and did not comply with the Interim

Criteria. The planning circumstances of the current application are similar to these rejected similar applications, not to mention that a more cautious approach had been formally adopted by the Board since August 2015. Application No. A/NE-TKL/248 was approved by the Committee in 2004 mainly on considerations that the application generally complied with the Interim Criteria as there was a general shortage of land within the “V” zone of the same village in meeting the future Small House demand at the time of consideration. The planning circumstances of the current application are different to the approved similar application which was considered before the Board’s formal adoption of the more cautious approach.

- 12.6 Regarding the public comments in paragraph 11, government departments’ comments and planning assessments above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments as detailed in paragraph 11, 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 “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. 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.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 2.8.2028, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted commences or the permission is renewed. The Recommended Advisory Clauses are attached at **Appendix VII**.

### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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.



**15. Attachments**

<b>Appendix I</b>	Application Form with attachment received on 6.6.2024
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Relevant extracts of TPB PG-No. 10
<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>Drawing A-1</b>	Proposed Small House 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 for Small House Development within the “V” zone of Ping Yeung
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
AUGUST 2024**