

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

**APPLICATIONS NO. A/NE-TKL/627 and 628**

- Applicants** : Mr. CHAN Paul Wai Sheung (Application No. A/NE-TKL/627)  
(with CHAN Fong Shui as Power Attorney)  
Mr. CHAN Philip Wai Ho (Application No. A/NE-TKL/628)  
(with CHAN Fong Shui as Power Attorney)  
all represented by Glister Engineering Consultants Company
- Sites** : Lot 166 S.A (Application No. A/NE-TKL/627)  
Lot 166 S.B (Application No. A/NE-TKL/628)  
all in D.D. 79, Ping Yeung Village, Ta Kwu Ling, New Territories
- Site Areas** : 228 m<sup>2</sup> (about) (Application No. A/NE-TKL/627)  
150 m<sup>2</sup> (about) (Application No. A/NE-TKL/628)
- 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 claimed to be indigenous villagers of Ping Yeung of Ta Kwu Ling Heung<sup>1</sup>, seeks planning permissions to build a NTEH (Small House) on each of the application sites (the Sites) in Ping Yeung Village, Ta Kwu Ling (**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)’ in “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

---

<sup>1</sup> According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants have been certified by the Indigenous Inhabitants Representative in statutory declaration that the applicants are indigenous villagers of Ping Yeung in Ta Kwu Ling Heung.

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

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

1.3 Layouts of the two proposed Small Houses (including septic tanks) under applications No. A/NE-TKL/627 and 628 are shown on **Drawings A-1 and A-2** respectively. The applicants indicate that the uncovered areas of the Sites would be used as garden of their proposed Small Houses.

1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) and supplementary information (**Appendix Ic**) which were received by the Board on 13.9.2019 and 16.9.2019 respectively.

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

The justifications put forth by the applicants in support of the applications are detailed in part 9 of the Application Forms in **Appendices Ia and Ib** and supplementary information in **Appendix Ic**. They can be summarised as follows:

- (a) the applicants are the registered owners of the Sites and the Sites fall within the village 'environs' ('VE') of Ping Yeung;
- (b) the applicants are indigenous villagers of Ping Yeung and are entitled for Small House Grants under the Small House policy;
- (c) the proposed developments are compatible with the surrounding environment and land use; and
- (d) there are other similar approved applications in the vicinity of the Sites.

## 3. **Compliance with the "Owner's Consent/Notification" Requirements**

The applicants are the "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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. 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 Sites.

## 6. Similar Applications

- 6.1 There are 21 similar applications for Small House development within/partly within the “AGR” zone (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000 (**Appendix II**).
- 6.2 Four applications (No. A/NE-TKL/183, 369, 383 and 617) were rejected by the Board on review/the Committee between February 2002 and July 2019 mainly on the considerations that the proposed Small House developments did not comply with the Interim Criteria as the footprints of the proposed Small Houses fell outside/ mainly outside the “V” zone and ‘VE’ of a recognised village; the applications were not in line with the planning intention of the “AGR” zone; and the approval of the applications would set undesirable precedents for similar applications.
- 6.3 Ten applications were approved with conditions by the Committee of the Board between November 2001 and August 2013 (i.e. before a more cautious approach is adopted by the Board) (**Plan A-1**) mainly on the considerations 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; 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.
- 6.4 Six applications (No. A/NE-TKL/543 to 546, 599 and 604) were approved by the Committee between October 2016 and December 2018 (i.e. after a more cautious approach) is adopted by the Board (**Plan A-1**) 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’ while a new village cluster was forming in the locality.
- 6.5 One application (No. A/NE-TKL/619) was rejected by the Committee in August 2019 (i.e. after a more cautious approach) is adopted by the Board (**Plan A-1**) mainly on the considerations that the application was not in line with the planning intention of the “AGR” zone; and land is still available within the “V” zone of Ping Yeung Village where land is primarily intended for Small House Development.
- 6.6 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

## 7. The Sites and Their Surrounding Area (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, partly paved and fenced off;
  - (b) located to the west of the “V” zone of Ping Yeung (**Plan A-2a**); and

(c) accessible via a local track leading to Ping Yuen Road.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character where village houses, temporary structures and fallow agricultural land are found;
- (b) to the immediate north and east are some village houses under approved applications No. A/NE-TKL/220, 282 and 327 (**Plans A-2a and A-3**);
- (c) to the immediate west is Ping Yuen Road; and
- (d) to the further east are village houses within the “V” zone of Ping Yeung (**Plans A-2a and A-3**).

## 8. Planning Intention

The planning intention of the “AGR” zone in Ping Che and Ta Kwu Ling area is to primarily 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:

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
1.	Within “V” zone? - The Sites  - Footprints of the proposed Small Houses -	-  -	100%  100%	- The Sites and the 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%	-  -	- DLO/N, LandsD advises that the Sites and the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Ping Yeung.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> <li>- Land required to meet the Small House demand in Ping Yeung: about 27.5 ha (equivalent to 1,100 Small House sites). The outstanding Small House applications for Ping Yeung are 65<sup>2</sup> while the 10-year Small House demand forecast for the same village is 1,035.</li> </ul> <p><u>Land Available</u></p> <ul style="list-style-type: none"> <li>- Land available to meet the Small House demand within the “V” zone of Ping Yeung: about 5.22 ha (equivalent to 208 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> <li>- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation. The Sites are currently paved vacant land. Agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as greenhouses, plant nurseries etc.</li> <li>- From nature conservation point of view, DAFC has no adverse comments on the subject applications as the Sites are paved. Regarding the concrete drainage located at west of the Site (No. A/NE-TKL/627), good site practice should be implemented in order not to pollute the watercourse nearby.</li> </ul>
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> <li>- The proposed developments are not incompatible with surrounding rural setting and environment dominated by village houses and clusters of trees. (<b>Plan A-2b</b>).</li> </ul>
6.	Within Water Gathering Grounds (WGGs)?		✓	

<sup>2</sup> Among the 65 outstanding Small House applications, 37 of them fall within the “V” zone and 28 straddle or outside the “V” zone. For those 28 applications straddling or being outside the “V” zone, 6 of them have obtained valid planning approval from the Board.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</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 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 are not expected to be significant, such type of developments outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.  - Notwithstanding the above, the applications involve the construction of two Small Houses. She considers that the applications can be tolerated unless they are 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 implementation of drainage proposal is required.
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 point of view.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
13.	Local objection conveyed by DO?		✓	- District Officer (North) (DO(N)) has consulted the locals and all consultees have no comment to the proposals.

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

- (a) District Lands Officer/North, Lands Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;
- (c) Director of Environmental Protection;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Commissioner for Transport;
- (f) Director of Agriculture, Fisheries and Conservation;
- (g) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (h) Director of Fire Services; and
- (i) District Officer (North), Home Affairs Department.

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), North Development Office, Civil Engineering and Development Department.

## **10. Public Comments Received During Statutory Publication Period**

On 20.9.2019, the applications were published for public inspection. During the statutory public inspection period, two public comments were received for both applications (**Appendix V**). The Designing Hong Kong Limited and one individual object to the applications mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; there is land available in “V” zone of the village; and approval of the application would encourage ‘destroy first, built later’ developments and set an undesirable precedent for similar applications in the area.

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

11.1 The Sites fall entirely within an area zoned “AGR” on the OZP. The proposed Small House developments 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.

11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Ping Yeung is 65 while the 10-year Small House demand forecast for the same village is 1,035. According to the latest estimate by PlanD, about 5.22 ha (equivalent to 208 Small House sites) of land are available in the “V” zone of Ping Yeung for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the

proposed Small Houses fall entirely within the 'VE' of Ping Yeung.

- 11.3 The Sites are situated in an area of rural landscape character surrounded by village houses and vegetated areas, and the proposed Small House developments are not incompatible with the surrounding environment (**Plans A-2a** and **A-3**). CTP/UD&L, PlanD has no objection to the applications as significant adverse impact arising from the proposed use on existing landscape resources 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 the construction of two Small Houses, the applications could be tolerated. Other Government departments consulted, including D of FS, CE/C of WSD and CE/MN of DSD, have no adverse comment on or no objection to the applications.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the 'VE' of the Ping Yeung (**Plan A-2a**). While land available within the "V" zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 1,100 Small Houses, such available land (about 5.22 ha or equivalent to 208 Small House sites) is capable to meet the 65 outstanding Small House applications. 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" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, there are clusters of existing village houses to their east with a number of Small Houses previously approved by the Committee to their South. The implementation of which are forming a new village cluster in the vicinity of the Sites (**Plan A-2a**). In this regard, sympathetic consideration might be given to the applicants.
- 11.5 There are 13 similar applications for Small House development with/partly within the "AGR" zone in the vicinity of the Site (**Plan A-2a**). Six applications were approved between 2002 and 2013 (i.e. before a more cautious approach is adopted by the Board). One application No. A/NE-TKL/383 was rejected in 2012 mainly on the grounds that the proposed Small House development did not comply with the Interim Criteria as the footprint of the proposed Small House fell outside the "V" zone and 'VE' of a recognised village. For the remaining six applications (No. A/NE-TKL/543 to 546, 599 and 604), they were approved by the Committee between October 2016 and December 2018 (i.e. after a more cautious approach is adopted by the Board) mainly on sympathetic considerations that the proposed Small Houses situated in close proximity to the sites of approved Small House applications; 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' while a new village cluster was forming in the locality. The circumstances of the current applications are similar to those six approved applications.
- 11.6 Regarding the adverse public comments as detailed in paragraph 10, the Government department's comments and the planning assessment above are relevant.



## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraph 10, 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 1.11.2023, 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 VI**.

- 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 in the Ping Che and Ta Kwu Ling area 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 where land 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.

## 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 and Ib</b>	Application Forms with Attachments received on 13.9.2019
<b>Appendix Ic</b>	Supplementary Information received on 16.9.2019
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “Agriculture” zone in the Ping Che and Ta Kwu Ling Area
<b>Appendix IV</b>	Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1 and A-2</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” 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 Photo

**PLANNING DEPARTMENT  
NOVEMBER 2019**