

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/630

- Applicant** : Mr. WONG Raymond represented by Mr. HUI I Yuen
- Site** : Lot 548 S.E in D.D. 77, Ping Che Village, Ta Kwu Ling, New Territories
- Site Area** : 156.3 m² (about)
- 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”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who is an indigenous villager of Kan Tau Wai in Ta Kwu Ling Heung, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Ping Che Village (**Plans A-1 and A-2a**). The Site falls 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).

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

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

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

1.3 The Site is the subject of a previous planning application No. A/NE-TKL/350 for development of a Small House submitted by the same applicant. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 4.3.2011 and the validity of planning permission was extended until 4.3.2019. The

planning permission had lapsed on 5.3.2019. According to DLO/N, LandsD, the Small House application at the Site was approved in 2013 but yet to be executed. Compared with the previous application, major development parameters including the layout of the proposed Small House under the current application remain unchanged.

- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received by the Board on 1.11.2019.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) the Site is the subject of a previous planning application for a Small House development (application No. A/NE-TKL/350) approved in 2011 (**Plan A-2a**). The planning permission was extended once to March 2019;
- (b) the landscape proposal and stormwater drainage proposal as requested in the approval conditions of the previous application No. A/NE-TKL/350 had been submitted to and approved by the relevant Government departments;
- (c) the proposed Small House is compatible with the surrounding environment which is dominated by village houses and will not have adverse impact on the environment;
- (d) the Site falls entirely within the ‘Village Environ’ (‘VE’) of the Ping Che; and
- (e) there are many similar cases approved in the locality.

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 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

- 5.1 The Site is subject of a previous planning application (No. A/NE-TKL/350) for the development of a Small House submitted by the same applicant as the current application. That application was approved by the Committee on 4.3.2011 (**Plan A-1**). The application was approved mainly on the grounds that the application generally complied with the Interim Criteria in that there was a general shortage of land within the “V” zone at the time of consideration; the proposed development was not incompatible with the surrounding area; and the proposed development was not expected to have significant adverse impacts on the surrounding area. Relevant approval conditions in relation to the

drainage and landscape proposals were submitted and agreed by the concerned Government departments. The planning permission was extended once to 4.3.2019 and lapsed on 5.3.2019. Compared with the previous application, major development parameters including the layout of the proposed Small House under the current application remain unchanged.

- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1 and A-2**.

6. Similar Applications

- 6.1 There are 19 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 14 applications were approved with conditions by the Committee between June 2007 and February 2015 (i.e. before the cautious approach being adopted by the Board) mainly on the considerations that the applications generally 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 within the “V” zones of Ping Che village cluster¹ at the time of consideration; 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 The other 5 applications (i.e. applications No. A/NE-TKL/528, 529, 530, 536 and 537) were approved by the Committee in November 2015 and January 2016 (i.e. after the cautious approach being 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 though the land available within the “V” zone was able to meet the outstanding applications at the time of considerations; the proposed Small Houses were sandwiched by Small House applications and considered as an infill Small House development while a new village cluster was forming in the locality.
- 6.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a to A-2d, and aerial photo on Plan A-3 and site photo on Plan A-4)

- 7.1 The Site is:
- (a) currently vacant and flat (**Plan A-4**);
 - (b) located to the south of the village proper of Ping Che (**Plan A-2a**); and
 - (c) accessible via Ng Chow South Road.
- 7.2 The surrounding areas have the following characteristics:

¹ Ping Che village cluster comprises Ping Che, Ping Che Kak Tin and Ping Che Yuen Ha.

- (a) to the immediate east is Ping Che Mini-Soccer Pitch, and to the further east across Ng Chow Road are village houses in the ‘V’ zone of Ping Che;
- (b) to the immediate south and west are approved planning applications for development of Small House and village houses under construction;
- (c) to the further south across Ng Chow South Road is an area zoned “GB” with a sitting-out area, pumping station and an electricity package substation;
- (d) to the immediate north are vacant land with some approved planning applications for Small House development; and
- (e) to the further west are temporary domestic structures, parking of vehicles and some open storage / warehouse use.

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 application has 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 Site - Footprint of the proposed Small House	- -	100% 100%	- The Site and footprint of the proposed Small House falls entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	- DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Ping Che.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 Che village cluster: about 5.35 ha (equivalent to 214 Small House sites). The outstanding Small House applications for Ping Che village cluster are 54 ² while the 10-year Small House demand forecast for the same village cluster is 160. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zones of Ping Che village cluster: about 3.90 ha (equivalent to 155 Small House sites) (Plans A-2b to A-2d).
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. Agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		- The proposed development is not incompatible with surrounding setting and environment dominated by village houses, temporary structures and vacant land.
6.	Within Water Gathering Grounds (WGGs)?		✓	
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 specific comment on the application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.

² Among the 54 outstanding Small House applications in Ping Che village cluster, 29 of them fall within the “V” zone and 25 straddle or outside the “V” zone. For those 25 applications straddling or being outside the “V” zone, 2 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - 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. - Notwithstanding the above, the application only involves construction of one Small House. It is considered that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - The 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.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The 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?		✓	<ul style="list-style-type: none"> - 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. - Based on aerial photo of 2019, the Site is situated in an area of rural landscape character surrounded by village houses and temporary structures. No significant sensitive landscape resource is observed within the Site, hence, significant adverse impact on existing landscape resources arising from the application is not anticipated.

				- Since there is no major public frontage along the site boundary, should the TPB approve this application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.
13.	Local objections conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that the 1 st Vice-Chairman of Ta Kwu Ling District Rural Committee, the incumbent North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Ping Che have no comment on the application.

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

9.3 The following Government departments have no comment on the application:

- (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 8.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received (**Appendix VI**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application and one NDC member supports the application as it meets the needs of the villager. Designing Hong Kong Limited and one individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; the proposed development could lead to noise pollution that would impact the enjoyment of recreational facilities nearby; land is still available within the “V” zone of Ping Che; and approval of the application would set an undesirable precedent for similar applications in the area.

11. **Planning Considerations and Assessments**

11.1 The Site falls entirely within the “AGR” zone. The proposed Small House 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. 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 application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation.

- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Ping Che village cluster is 54 while the 10-year Small House demand forecast for the same village cluster is 160. According to the latest estimate by PlanD, about 3.90 ha (equivalent to 155 Small House sites) of land are available in the “V” zones of Ping Che village cluster for Small House development (**Plans A-2b to A-2d**). DLO/N, LandsD advises that the proposed Small House falls entirely within the ‘VE’ of Ping Che.
- 11.3 The Site is situated in an area of rural village character in close proximity to the existing village houses. The proposed Small House development is not incompatible with the surrounding environment (**Plans A-2a and A-3**). CTP/UD&L, PlanD has no objection to the application as significant adverse impact arising from the proposed use on existing landscape resources 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 only involves the construction of one Small House, the application could be tolerated. Other Government departments consulted, including HyD, CEDD, D of FS, CE/C of WSD and CE/MN of DSD, have no adverse comment on or no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Ping Che (**Plan A-2a**). While land available within the “V” zones of Ping Che village cluster is insufficient to fully meet the future Small House demand of 214 Small Houses, such available land (about 3.9 ha or equivalent to 155 Small House sites) is capable to meet the 54 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 development within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, it is noted that the Site is the subject of a previously approved planning application submitted by the same applicant and the processing of the Small House grant is already at an advanced stage. According to DLO/N, LandsD, the Small House application at the Site was approved but yet to be executed. Besides, the Site is bounded by approved Small Houses to the north, south and west, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Hence, sympathetic consideration might be given to the current application.
- 11.5 There are 19 similar applications for Small House developments in the vicinity of the Site within the ‘VE’ of Ping Che (**Plan A-2a**). Before the adoption of a more cautious approach by the Board, 14 applications were approved by the Committee between June 2007 and February 2015 mainly on the considerations that the applications generally 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 within the “V” zone at the time of consideration; 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. After the adoption of a more cautious approach by the Board, 5 applications (i.e. applications No. A/NE-TKL/528, 529, 530, 536 and 537) were approved in November 2015 and January 2016 mainly on the consideration that the applications were in proximity to the existing village houses and there were approved Small House developments nearby, the implementation of which were forming a new village cluster in the locality. The planning circumstances of the current application are similar to the applications approved after the adoption of a more cautious approach by the Board.

- 11.6 Regarding the adverse public comment objecting to the application, 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 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 13.12.2023, 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 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 in the Ping Che and Ta Kwu Ling area which is to primarily 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 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 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 1.11.2019
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous s.16 Application
Appendix IV	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
Appendix V	Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zones of Ping Che for Small House Development
Plan A-2c	Estimated Amount of Land Available within the “V” zone of Ping Che Kak Tin for Small House Development
Plan A-2d	Estimated Amount of Land Available within the “V” zone of Ping Che Yuen Ha for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo