

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

**APPLICATIONS NO. A/NE-PK/130 and 131**

- Applicants** : Mr. LUI Mike (Application No. A/NE-PK/130)  
Mr. LIU Sing (Application No. A/NE-PK/131)  
all represented by T. H. & Associates Limited
- Sites** Lot 1580 S.C in D.D.91 (Application No. A/NE-PK/130)  
Lots 1592 S.D and 1593 S.D in D.D. 91 (Application No. A/NE-PK/131)  
all in Kai Leng, Sheung Shui, New Territories
- Site Areas** : 169.6 m<sup>2</sup> (about) (Application No. A/NE-PK/130)  
126.4 m<sup>2</sup> (about) (Application No. A/NE-PK/131)
- Lease** : (a) Block Government Lease (demised for agricultural use)  
(Applications No. A/NE-PK/130 and 131)  
(b) Lot 1580 in D.D. 91 is covered by a Letter of Approval No. L755  
(Application No. A/NE-PK/130)
- Plan** : Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
- 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<sup>1</sup>, seek planning permission to build a NTEH (Small Houses) on each of the application sites (the Sites) in Kai Leng, Sheung Shui (**Plans A-1 and A-2a**). The Sites fall within an area zoned “AGR” on the approved Ping Kong OZP No. S/NE-PK/11. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of New Territories Exempted House or replacement of existing domestic building by New Territories Exempted House permitted under the covering Notes)’ within “AGR” zone is a Column 2 use, which requires 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 claimed themselves to be indigenous villagers of Sheung Shui Village. Their eligibility for Small House concessionary grants have yet to be ascertained.

1.2 Details of each of the 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 The applicants indicate that the uncovered area of the Sites would be used as garden of the proposed Small Houses. Layouts of the proposed Small Houses under applications No. A/NE-PK/130 and 131 (including septic tanks) are shown on **Drawings A-1 and A-2** respectively.

1.4 Each of the Sites is the subject of one previous application for the development of a Small House submitted by different applicant as the current application. Compared with the previous applications (No. A/NE-PK/52 for the Site of application No. A/NE-PK/130 and No. A/NE-PK/56 for the Site of application No. A/NE-PK/131), the site areas and major development parameters including the layouts of the proposed Small Houses under the current applications generally remain the same.

1.5 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) which were received by the Board on 14.3.2018.

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

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

- (a) the applicants are indigenous villagers of Sheung Shui Wai;
- (b) the Sites were the subjects of two previous planning applications (No. A/NE-PK/52 for the Site of application No. A/NE-PK/130 and No. A/NE-PK/56 for the Site of application No. A/NE-PK/131). Both previous applications were approved by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board on 23.5.2014 and 27.6.2014 respectively. Since the ownerships of the Sites have been changed, the applicants submit fresh applications;
- (c) the Sites fall entirely within the village 'environs' ('VE') of Kai Leng and are in close proximity to the "Village Type Development" ("V") zone of the Ping Kong OZP;
- (d) the "V" zone of Kai Leng is too small and land available within "V" zone is not enough to meet the high demand for Small House;
- (e) the proposed developments are considered compatible with the surrounding rural environment and would not cause adverse visual, landscape and drainage impacts;
- (f) there is no ditches or stream courses within 30 m of the Sites;
- (g) there is no vehicular access leading to the Sites. Therefore, the proposed developments would not cause adverse traffic impact to the surrounding; and
- (h) there are similar approved Small House applications within the 'VE' of Kai Leng.

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

The applicants are the sole “current land owners” on 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 Applications

5.1 The Sites of applications No. A/NE-PK/130 and 131 are the subjects of previous planning applications No. A/NE-PK/52 and 56 respectively for development of a Small house submitted by different applicants as the current applications. The applications were approved by the Committee on 23.5.2014 and 27.6.2014 respectively mainly on the considerations that the application generally complied with the Interim Criteria in that more than 50% of the footprint of the proposed Small House 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 development was not incompatible with the surrounding rural environment; and the proposed development was not expected to have significant adverse impacts on the surrounding area. Compared with the previous applications (No. A/NE-PK/52 and 56), the site areas and major development parameters including the layouts of the proposed Small Houses under applications No. A/NE-PK/130 and 131 generally remain the same.

5.2 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

### 6. Similar Applications

6.1 There are 97 similar applications involving 91 sites in the vicinity of the Sites for Small House development within/partly within the “AGR” zone in the Ping Kong area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.

6.2 All the applications were approved with conditions by the Committee between June 2001 and September 2017 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’ of Kai Leng and there was a general shortage of land in meeting the demand for Small House development; the proposed developments were generally not incompatible with the surrounding rural and village environment; and the proposed developments would unlikely cause adverse impacts.

6.3 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

**7. The Sites and Their Surrounding Area (Plans A-1, A-2a and A-2b, A-3 and A-4)**

7.1 The Sites are:

- (a) located to the south of the “V” zone of Kai Leng Village (**Plans A-2a and A-2b**);
- (b) the Site of application No. A/NE-PK/130 is flat and largely paved with a small portion overgrown with grass;
- (c) the Site of application No. A/NE-PK/131 is flat and largely overgrown with grass with a small portion paved; and
- (d) accessible by a local track leading to Pak Wo Road (**Plan A-2b**).

7.2 The surrounding area has the following characteristics:

- (a) rural landscape character dominated by village houses, temporary domestic structures, vacant land, active/fallow agricultural land and scattered tree groups;
- (b) to the north and northeast are village houses in the “V” zone of Kai Leng Village;
- (c) to the east, south and west are mainly vacant land which are the sites of some Small House developments approved by the Committee and their Small House grant applications are being processed / approved by DLO/N, LandsD (**Plans A-2a and A-2b**); and
- (d) to the north and northeast of the Site of application No. A/NE-PK/130 and to the west of the Site of application No. A/NE-PK/131 are vacant land being used for parking of vehicles.

**8. Planning Intention**

The planning intention of the “AGR” zone in Ping Kong 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%	  - Both the Sites and the footprints of the proposed Small Houses fall entirely within “AGR” zone.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> <li>- The Sites</li> <li>- Footprints of the proposed Small Houses</li> </ul>	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<p>DLO/N, LandsD advises that the Sites fall entirely within the 'VE' of Kai Leng Village.</p>
3.	<p>Sufficient land in "V" zone to satisfy outstanding Small House applications and 10-year Small House demand?</p>		<p>✓</p>	<ul style="list-style-type: none"> <li>- Land required to meet the Small House demand in Kai Leng Village: about 3.75 ha (equivalent to 150 Small House sites)<sup>2</sup>. The outstanding Small House applications for Kai Leng Village are 100 while the 10-year Small House demand forecast for the same village is 50.</li> <li>- Land available to meet the Small House demand within the "V" zone of Kai Leng Village: about 1.21 ha (equivalent to 48 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	<p>Compatible with the planning intention of "AGR" zone?</p>		<p>✓</p>	<p>The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agriculture point of view as the Sites are vacant land with active agricultural activities in the vicinity. The Sites possess high potential for agricultural rehabilitation.</p>
5.	<p>Compatible with surrounding area/development?</p>	<p>✓</p>		<p>The proposed Small Houses are not incompatible with the existing rural village environments dominated by village houses, temporary structures and active/fallow farmland.</p>
6.	<p>Within Water Gathering Grounds (WGGs)?</p>		<p>✓</p>	
7.	<p>Encroachment onto planned road networks and public works boundaries?</p>		<p>✓</p>	
8.	<p>Need for provision of fire service installations and emergency vehicular access (EVA)?</p>		<p>✓</p>	<p>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.</p>

<sup>2</sup> Among the 100 outstanding Small House applications, there are 74 Small House applications straddling or outside the "V" zone that have already obtained 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>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- 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 is 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.</li> <li>- Notwithstanding the above, the applications only involve construction of two Small Houses. He considers that the applications can be tolerated unless they are rejected on other grounds.</li> </ul>
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 for each of the applications.
11.	Sewage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.
12.	Landscaping impact?	✓		<ul style="list-style-type: none"> <li>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the applications from the landscape planning point of view.</li> <li>- The Sites are located in the area of rural fringe landscape character comprising of village houses, low rise residential developments, large areas of fallow farmlands mostly covered with wild vegetation and partly hard paved; and scattered tree groups. At a further distance, some active farmlands and high-rise housing estate are found.</li> <li>- Both Sites are amongst the hard paved areas and no significant vegetation are</li> </ul>

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
				<p>found within the Sites. Both Sites are surrounded by vacant sites with planning permissions for Small House development granted in the past few years. The proposed Small Houses are not incompatible with their surroundings and significant landscape impact arising from the proposed developments is no anticipated.</p> <p>- Should the applications be approved by the Board, an approval condition on submission and implementation of landscape proposal is recommended for each of the applications.</p>
13.	Local objection conveyed by DO?		✓	The District Officer (North) (DO(N)) advises that the incumbent North District Council (NDC) members of relevant constituencies, the Chairman of Sheung Shui District Rural Committee (SSDRC), the Indigenous Inhabitant Representative and the Resident Representative of Kai Leng have no comment on the applications.

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 V**.

- (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 (CHE/NTE, HyD); and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

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

On 23.3.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, three public comments on each application were received respectively (**Appendix VI**). A NDC member supports the applications as

they provide convenience to the villagers whereas the Chairman of SSDRC indicates no comment on the applications. An individual objects to the applications mainly on the grounds that similar approved applications in the vicinity are being developed into residential compound for sale instead of residential use for indigenous villagers; septic tanks may contaminate water sources and the development of community should be properly planned with provision of EVA, community facilities and other amenities.

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

- 11.1 The proposed Small House developments are not in line with the planning intention of the “AGR” zone which is intended 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 applications from the agriculture point of view as the Sites possess high potential for agricultural rehabilitation.
- 11.2 The applications are cross-village Small House applications. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kai Leng is 100 while the 10-year Small House demand forecast for the same village is 50. According to the latest estimate by PlanD, a total of about 1.21 ha (equivalent to 48 Small House sites) of land are available within the “V” zone of Kai Leng for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Sites fall entirely within the ‘VE’ of Kai Leng Village.
- 11.3 The Sites are mainly flat, partly paved and partly covered with grass (**Plans A-2a and A-4**). The village proper of Kai Leng is located to the north and northeast and there are approved Small House applications in the vicinity of the Sites. The proposed Small Houses are not incompatible with the surrounding rural setting dominated by village houses, temporary domestic structures, active/fallow farmlands, hard paved vacant land and scattered tree groups. Significant adverse landscape impact arising from the proposed developments is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T has reservation on the applications and considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed developments involve two Small Houses, they could be tolerated. Other Government departments consulted, including DEP, CE/MN of DSD and D of FS, 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 Kai Leng Village (**Plan A-2a**) and land available within the “V” zone is insufficient to meet the outstanding 100 Small House applications and the future Small House demand forecast of 50 (in total about 3.75 ha or equivalent to 150 Small House sites). It is noted that the Sites are in close proximity to the existing village proper of Kai Leng and there are approved Small House applications in the vicinity, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Besides, the Sites are the subject of previous applications (No. A/NE-PK/52 and 56) for Small House development approved by the Committee in May and June 2014 respectively.
- 11.5 A total of 97 similar applications within the same “AGR” zone in the vicinity of the Sites (**Plan A-1**) were approved by the Committee between June 2001 and September 2017 mainly on considerations that they complied with the Interim Criteria; the



proposed Small House developments were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area. There has not been any major change in planning circumstances of the area since the approval of these similar applications.

- 11.6 Regarding the adverse public comments mainly on the misuse of approved Small Houses in the vicinity, the potential risk of contamination of water sources from septic tanks and the need of proper planning of community, 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 applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 4.5.2022, 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;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning 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 applications, the following reason for rejection is suggested for Member's reference:

the proposed development is not in line with the planning intention of the "AGR" zone in the Ping Kong 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.

## **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 14.3.2018
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous s.16 Applications
<b>Appendix IV</b>	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “Agriculture” zone in the Ping Kong Area
<b>Appendix V</b>	Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawings 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 Kai Leng for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2018**