

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

**APPLICATION NO. A/NE-PK/132**

- Applicant** : Mr. LUI Siu Tong represented by T. H. & Associates Limited
- Site** : Lots 1545 S.A and 1546 S.A in D.D. 91, Kai Leng, Sheung Shui, New Territories
- Site Area** : 117 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who claimed to be an indigenous villager<sup>1</sup>, seek planning permission to build a NTEH (Small House) on the application site (the Site) in Kai Leng, Sheung Shui (**Plans A-1 and A-2a**). The Site falls 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).

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

---

<sup>1</sup> According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Sheung Shui Village. His eligibility for Small House concessionary grant has yet to be ascertained.

- 1.4 The Site is the subject of a previous application (No. A/NE-PK/77) for the development of a Small House submitted by different applicant as the current application. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.1.2016. Compared with the previous application, the site area and major development parameters including the layout of the proposed Small House under the current application are the same .
- 1.5 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received by the Board on 20.3.2018.

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

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

- (a) the applicant is an indigenous villager of Sheung Shui Heung;
- (b) the Site was the subject of a previously approved planning application (No. A/NE-PK/77). Since the ownership of the Site has been changed, the applicant submits a fresh application;
- (c) the Site falls entirely within the village ‘environs’ (‘VE’) of Kai Leng and is 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 development is considered compatible with the surrounding rural environment and would not cause adverse environmental, visual and landscape impacts;
- (f) there is no ditches or stream courses within 30 m of the Site and no tree felling will be involved;
- (g) there is no vehicular access leading to the Site. Therefore, the proposed development 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 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 the subject of a previous planning application No. A/NE-PK/77 for development of a Small house submitted by different applicant as the current application. The application was approved with conditions by the Committee on 22.1.2016 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 application, the site area and major development parameters including the layout of the proposed Small House under the current application are the same.
- 5.2 Details of the previous application are summarised at **Appendix III** and the location is shown on **Plan A-1**.

## 6. Similar Applications

- 6.1 There are 99 similar applications involving 90 sites in the vicinity of the Site 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 May 2018 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 Site and Its Surrounding Area (Plans A-1, A-2a and A-2b, A-3 and A-4)

- 7.1 The Site is:
- (a) located to the south of the "V" zone of Kai Leng Village (**Plans A-2a and A-2b**);
  - (b) the Site is flat, vacant and largely overgrown with grass with a small portion paved and fenced off;
  - (c) the northern part of the Site encroaches onto a footpath and the western part of the Site encroaches onto a private garden (**Plans A-3 and A-4**); and
  - (d) not served by vehicular access.

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 are village houses in the “V” zone of Kai Leng Village;
- (c) surrounded by 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**);
- (d) to the south are active / fallow agricultural land; and
- (e) to the further east and northeast are low-rise residential development.

## 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 application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised 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  - Footprint of the proposed Small House	-  -	100%  100%	- Both the Site and the footprint of the proposed Small House fall entirely within “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 Kai Leng Village.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<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.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agriculture point of view as the Site is vacant and overgrown with vegetation. Agricultural activities in the vicinity are active. The Site possesses high potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The proposed Small House is not incompatible with the existing rural village environments dominated by village houses, temporary structures and active/fallow farmland.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?	✓		The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) states that existing water mains traversing the Site will be affected ( <b>Plan A-2a</b> ). The applicant needs to either divert it to Government land outside the site boundary of the proposed development or protect it within the Site.
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 application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.

<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 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. He considers that the application can 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.
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?		✓	<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 application from the landscape planning point of view.</li> <li>- The Site is 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>- The Site is within the fallow farmland covered with wild vegetation. Part of a paved footpath falls within the northern boundary and remnant of boundary wall is found at the western</li> </ul>

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
				<p>boundary. The Site is surrounded by vacant sites with planning permissions for Small House developments granted in the past few years. The proposed Small House is not incompatible with its surroundings and significant landscape impact arising from the proposed development is not anticipated.</p> <p>- Should the application be approved by the Board, an approval condition on submission and implementation of landscape proposal is recommended.</p>
13.	Local objection conveyed by DO?		✓	The District Officer (North) (DO(N)) advises that the incumbent North District Council (NDC) members of the 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 application.

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 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 27.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendix VI**). A NDC member supports the application as it provides convenience to the villagers whereas the Chairman of SSDRC indicates no comment on the application. An individual objects to the application 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 tank 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 development is 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 application from the agriculture point of view as the Site possesses high potential for agricultural rehabilitation.
- 11.2 The application is cross-village Small House application. 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 Site falls entirely within the ‘VE’ of Kai Leng Village.
- 11.3 The Site is mainly flat, vacant and covered with grass (**Plans A-2a** and **A-4**). The village proper of Kai Leng is located to the north and there are approved Small House applications in the vicinity of the Site. The proposed Small House is 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 development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view. C for T has reservation on the application and considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development only involves one Small House, it 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 application.
- 11.4 Regarding the footpath within the Site, DO(N), HAD advises that this facility is constructed and maintained by his office with consent from the lot owner. He further advises that the footprint of the proposed Small House should be located as far away from the footpath as possible. The applicant is reminded to maintain the footpath at the Site or find an alternative route to bypass the Site during and after building works. DLO/N, LandsD advises that if the footpath within the Site is affected by the proposed development, his office may consider if necessary and appropriate to include a clause to ensure that free passage on the portion of the footpath is to be provided at all times within the Site, should the Small House grant application be approved.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls 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 Site is 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 Site is the subject of a previous application (No. A/NE-PK/77) for Small House development approved by the Committee in January 2016.

- 11.6 A total of 99 similar applications involving 90 sites within the same “AGR” zone in the vicinity of the Site (**Plan A-1**) were approved by the Committee between June 2001 and May 2018 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.
- 11.7 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 application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.5.2022, 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 application, 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 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**

<b>Appendix I</b>	Application Form with Attachments received on 20.3.2018
<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 Application
<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>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 Kai Leng for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2018**