

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/146

- Applicant** : Mr. LIU Pan Cheong represented by T.H. & Associates Limited
- Site** : Lot 1574 S.C RP in D.D. 91 in Kai Leng, Sheung Shui, New Territories
- Site Area** : 200.6 m² (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 claims himself as an indigenous villager of Kai Leng, North District¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) (**Plans A-1 and A-2a**). The Site falls entirely within the “AGR” zone 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 NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use in the “AGR” zone 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 |

1.3 Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.

1.4 The Site is the subject of a previous application No. A/NE-PK/37 submitted by the same applicant for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 11.1.2013. The validity period of the

¹ According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant’s eligibility for Small House concessionary grant has been confirmed.

planning permission was extended on 26.10.2016 for a period of four years until 11.1.2021. The planning permission has lapsed on 12.1.2021. The current application is the same as the previous one in terms of site area, development parameters and Small House footprint.

- 1.5 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) received on 28.12.2020.

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 applicant is an indigenous villager of Kai Leng and the Site is located entirely within the village 'environs' ('VE') of Kai Leng;
- (b) land within the "Village Type Development" ("V") zone of Kai Leng is insufficient to meet the Small House demand. It is difficult for the applicant to acquire land within the "V" zone;
- (c) the proposed Small House development is compatible with surrounding rural area. Similar applications for Small House development in the vicinity of the Site were approved in the past;
- (d) there is no ditch or stream within 30m of the Site. Also, the proposed development would not cause adverse traffic impact on surrounding areas; and
- (e) the Site is subject of a previous application No. A/NE-PK/37 approved in 2013 and the validity of the planning permission has ended. As the validity period of the planning permission cannot be further extended, the applicant needs to submit a fresh planning application to facilitate further processing of Small House grant application.

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

The applicant is the sole "current land owner" of the subject lot. 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. 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 application (No. A/NE-PK/37) for Small House development submitted by the same applicant of the current application. The application was approved by the Committee on 11.1.2013 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 of Kai Leng in meeting the Small House demand, and the proposed development was generally not incompatible with the surrounding rural and village environment and would unlikely cause adverse impacts. The planning permission has lapsed on 12.1.2021. Compared with the previous application, the site area and the general layout of the proposed Small House remain unchanged in the current application.

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

6. Similar Applications

- 6.1 There are 102 similar applications involving 91 sites in the vicinity of the Site for Small House development within/partly within the same "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 these applications were approved with conditions by the Committee between June 2001 and February 2021 on similar considerations for the approval of Application No. A/NE-PK/37 mentioned in paragraph 5 above.
- 6.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (**Plans A-1, A-2a and A-2b, A-3 and A-4**)

7.1 The Site is:

- (a) currently flat, vacant and sparsely covered with wild grass; and
- (b) located to the immediate south of the "V" zone of Kai Leng (**Plan A-2a**).

7.2 The surrounding areas have the following characteristics:

- (a) mainly of rural landscape character dominated by active/fallow agricultural land, temporary domestic structures and village houses;
- (b) the areas in the immediate neighbourhood of the Site are largely vacant, comprising many sites with planning approvals for Small House developments and under Small House grant applications being processed / approved by DLO/N, LandsD (**Plans A-2a and A-2b**); and
- (c) active agricultural land is found mainly over 40m to the south of the Site (**Plan A-3**).

8. Planning Intention

The planning intention of the "AGR" zone in the Ping Kong area is intended 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.

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% | |
| 2. | Within ‘VE’? - The Site - Footprint of the proposed Small House | 100% 100% | - - | |
| 3. | Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)? | | ✓ | <u>Land Required</u> - Land required to meet Small House demand in Kai Leng: about 8.8 ha (equivalent to 352 Small House sites). The outstanding Small House applications for Kai Leng are 73 ² while the 10-year Small House demand forecast for the same village is 279. |
| | Sufficient land in “V” zone to meet outstanding Small House applications? | | ✓ | <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Kai Leng: about 0.7 ha (equivalent to 28 Small House sites) (Plan A-2b). |
| 4. | Compatible with the planning intention of “AGR” zone? | | ✓ | Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agriculture point of view as the Site possesses potential for agricultural rehabilitation, with active agricultural activities in the vicinity and agricultural infrastructures such as |

² Among the 73 outstanding Small House applications, there are 65 Small House applications straddling or outside the “V” zone that have already obtained planning approval from the Board.

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|-----|--|------------|-----------|--|
| | | | | road access and water source available. |
| 5. | Compatible with surrounding area/ development? | ✓ | | The surrounding areas are mainly of rural landscape character dominated by village houses, active/fallow agricultural land and vacant land. |
| 6. | Within Water Gathering Grounds (WGGs)? | | ✓ | |
| 7. | Environmental and Sewerage impact? | | ✓ | Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application is unlikely to cause major pollution. |
| 8. | Encroachment onto planned road networks and public works boundaries? | | ✓ | |
| 9. | Need for provision of fire service installations and emergency vehicular access (EVA)? | | ✓ | Director of Fire Services (D of FS) has no in-principle objection to the application. |
| 10. | Traffic impact? | ✓ | | 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. Notwithstanding the above, the application involving only one Small House can be tolerated unless being rejected on other grounds. |
| 11. | 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. |
| 12. | Landscape 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 as significant adverse landscape impact arising from the proposed development is not anticipated. |
| 13. | Local objections received from DO? | | ✓ | |

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments from government departments are at **Appendix V**.

- (a) District Lands Officer/North, Lands Department (DLO/N, LandsD);
- (b) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (f) Director of Fire Services (D of FS);
- (g) Director of Environmental Protection (DEP);
- (h) Commissioner for Transport (C for T); and
- (i) District Officer (North), Home Affairs Department (DO(N), HAD).

9.3 The following government departments have no objection to or no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 5.1.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received. One individual indicates no comment on the application, and another commenter, Designing Hong Kong Limited, objects to the application mainly for reasons that the proposed Small House development is not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone of Kai Leng; and approval of the application would set an undesirable precedent leading to a general degradation of the rural environment of the area.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House development in an area zoned “AGR” on the OZP. 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 potential for agricultural rehabilitation.

11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kai Leng is 73 while the 10-year Small House demand forecast for the same village is 279. According to the latest estimate by PlanD, a total of about 0.7 ha (equivalent to 28 Small House sites) of land is available within the “V” zone of Kai Leng for Small House development.

11.3 The Site is flat, vacant and sparsely covered with wild grass, and located to the immediate south of the “V” zone of Kai Leng. Active agricultural land is mainly over 40m to the south. The areas in vicinity of the Site are largely vacant, comprising many

sites with planning permissions for Small House developments. The implementation of these approved Small Houses are forming a new village cluster in the locality. The proposed Small House is not incompatible with the surrounding rural setting dominated by village houses, temporary domestic structures, active/fallow farmlands. CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view. C for T advises that the proposed development involving only one Small House could be tolerated. As existing water mains is located inside the Site (**Plan A-2b**), CE/C of WSD requests the applicant to either divert or protect the water mains found on site, and a relevant approval condition is recommended. Other Government departments consulted, including DEP, CE/MN of DSD, D of FS etc, have no adverse comment on or no objection to the application.

- 11.4 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the 'VE' of Kai Leng and land available within the "V" zone (about 0.7ha or equivalent to 28 Small House sites) is insufficient to meet even the 73 outstanding Small House applications submitted to LandsD. As such, the application generally complies with the Interim Criteria. Besides, the Site is the subject of a previously approved planning application No. A/NE-PK/37 for the same use submitted by the same applicant. Compared with the previous application, there is no change in the major planning parameters and the layout of the proposed Small House. DLO/N of LandsD advised that the applicant's Small House grant application has been approved pending execution of licence documents. As the processing of Small House grant at the Site is already at an advanced stage, sympathetic consideration could be given to the application.
- 11.5 A total of 102 similar applications involving 91 sites within the same "AGR" zone in the vicinity of the Site were approved by the Committee between June 2001 and February 2021 mainly on considerations that the proposed development generally complied with the Interim Criteria with more than 50% of the Small House footprint falling within the 'VE' and a general shortage of land within the "V" zone to meet the Small House demand, and proposed developments were generally not incompatible with the surrounding rural and village environment and would unlikely cause adverse impacts. The circumstances of the current application are largely the same as these similar cases.
- 11.6 Regarding the objecting public comment mentioned in paragraph 10, comments of the concerned government departments 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 26.2.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted has 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 proposal for water mains diversion before commencement of works to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) 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 reason for rejection is suggested for Members' reference:

- the proposed 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. 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 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

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|---------------------|---|
| Appendix I | Application Form with attachments received on 28.12.2020 |
| Appendix II | Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in New Territories |
| Appendix III | Previous Application |
| Appendix IV | Similar s.16 Applications for Proposed House (NTEH - Small House) within/partly within the same "AGR" zone in the vicinity of the Sites in the Ping Kong Area |
| Appendix V | Comments from Relevant Government Departments |
| Appendix VI | Public Comments |
| Appendix VII | Recommended Advisory Clauses |
| Drawing A-1 | Proposed Small House Layout Plan submitted by the applicant |
| Plan A-1 | Location Plan |
| Plan A-2a | Site Plan |

| | |
|------------------|--|
| Plan A-2b | Estimated Amount of Land Available within the “V” zone of Kai Leng for Small House Development |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |

**PLANNING DEPARTMENT
FEBRUARY 2021**