

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LK/156, 157 and 158

Applicants : Mr YAU Shik Fan Eddy (Application No. A/NE-LK/156)
Mr YAU Yiu Fan Samuel (Application No. A/NE-LK/157)
Mr TSANG Kam Tong (Application No. A/NE-LK/158)

all represented by Glister Engineering Consultants Company

Sites : Lots 1396 S.B and 1397 S.B (Application No. A/NE-LK/156)
Lots 1396 S.C and 1397 S.C (Application No. A/NE-LK/157)
Lots 1396 S.D and 1397 S.D (Application No. A/NE-LK/158)

all in D.D. 39, Ma Tseuk Leng, Sha Tau Kok, New Territories

Site Areas : 156m² (about) (Application No. A/NE-LK/156)
146.9m² (about) (Application No. A/NE-LK/157)
122m² (about) (Application No. A/NE-LK/158)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Luk Keng and Wo Hang Outline Zoning Plan (OZP) No. S/NE-LK/11

Zoning : “Agriculture” (“AGR”)

Applications : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposals

- 1.1 The applicants, who claim themselves as indigenous villagers¹ of Ma Tseuk Leng Village, seek planning permission to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Ma Tseuk Ling Village (**Plans A-1 and A-2a**). The Sites fall entirely within an area zoned “AGR” on the approved Luk Keng and Wo Hang OZP No. S/NE-LK/11. According to the Notes of the OZP, ‘House (NTEH only)’ in the “AGR” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Sites are currently covered with vegetation.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the eligibility of the applicants for Small House grants have been ascertained.

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

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

The applicants indicate that the uncovered area of the Sites would be used as garden area. The layouts of the proposed Small Houses are shown in **Drawings A-1 to A-3** respectively.

1.3 Each of the Sites is the subject of a previous application (A/NE-LK/88, 89 and 90) submitted by the same applicants for the same use (**Plans A-1 and A-2a**), which were approved by the Rural and New Town Planning Committee (the Committee) in 2014 the

<u>Current Application</u>	<u>Previous Application</u>	<u>Date of Approval</u>
A/NE-LK/156	A/NE-LK/90	17.10.2014
A/NE-LK/157	A/NE-LK/89	17.10.2014
A/NE-LK/158	A/NE-LK/88	17.10.2014

Compared with the previously approved applications, the major development parameters of the proposed Small Houses are generally the same as the current ones. Details of the previous applications are set out in paragraphs 5.1 to 5.2 below.

1.4 In support of the applications, the applicants have submitted the following documents: \

- (a) Application Form (No. A/NE-LK/156) with attachments **(Appendix Ia)** received on 30.1.2024
- (b) Application Form (No. A/NE-LK/157) with attachments **(Appendix Ib)** received on 30.1.2024
- (c) Application Form (No. A/NE-LK/158) with attachments **(Appendix Ic)** received on 30.1.2024
- (d) Supplementary Information (SI) for Application No. **(Appendix Id)** A/NE-LK/156 received on 1.2.2024
- (e) SI for Application No. A/NE-LK/157 received on 1.2.2024 **(Appendix Ie)**
- (f) SI for Application No. A/NE-LK/158 received on 1.2.2024 **(Appendix If)**
- (g) Further Information (FI) for Application No. A/NE-LK/156 **(Appendix Ig)** received on 7.3.2024[^]
- (h) FI for Application No. A/NE-LK/157 received on 7.3.2024[^] **(Appendix Ih)**
- (i) FI for Application No. A/NE-LK/158 received on 7.3.2024[^] **(Appendix Ii)**
[^] accepted and exempted from publication and recounting requirements

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed at **Appendices Ia to If**, and summarized as follows:

- (a) the applicants are registered owners of the Sites, and they claim to be indigenous villagers who are entitled to Small House grants in accordance with the Small House policy;

- (b) the Sites fall within the village 'environ' ('VE') of Ma Tseuk Leng. The proposed development is compatible with the surrounding environment and land uses;
- (c) there are similar applications approved in the vicinity of the Sites; and
- (d) the Small House applications are currently being processed by Lands Department.

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

The applicants are the sole "current land owners" of the respective lots at the Sites. 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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Applications

- 5.1 The Sites are the subject of three previous applications (No. A/NE-LK/88, 89 and 90) submitted by the same applicants for the same use which were approved by the Rural and New Town Planning Committee ("the Committee") in 2014 mainly on considerations that the applications were in line with the Interim Criteria in that the footprint of proposed Small Houses fall within the 'VE' of Ma Tseuk Leng and there was insufficient land in the "V" zone to meet the Small House demand at the time of consideration.
- 5.2 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-1** and **A-2a**.

6. Similar Applications

- 6.1 There have been 31 similar applications for Small House development within/partly within the "AGR" zone in the vicinity of the Site in the Luk Keng and Wo Hang area since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 16 applications were approved by the Committee between Decembers 2000 and January 2015 (i.e. before the formal adoption of a more cautious approach² by the Board since August 2015) mainly on the grounds that the applications generally complied with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the 'VE' and the proposed Small House developments were not incompatible with the surrounding rural landscape character and would unlikely generate significant adverse impacts on the surrounding areas. Two applications (No. A/NE-LK/92 and 93) straddling the "AGR" and "Green Belt" ("GB") zones were rejected in 2014 mainly on

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

the grounds that the proposed developments were not in line with the planning intentions of the “AGR” and “GB” zones; land was still available within the “V” zone of Ma Tseuk Leng & San Uk Ha and Shek Kiu Tau village cluster; and the proposed developments did not comply with the Interim Criteria and Town Planning Board Guidelines No. 10 on ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’.

- 6.3 After the formal adoption of the more cautious approach by the Board, 13 applications were considered. Three applications (No. A/NE-LK/109, 149 and 150) were approved by the Committee between November 2017 and June 2023 mainly on the grounds that the sites were the subject of previously approved applications submitted by the same applicants. The remaining ten applications (No. A/NE-LK/114 to 117, 122, 134, 135, 144, 152 and 153) were rejected by the Committee/Board on review between November 2018 and September 2023 mainly on the grounds that the proposed developments were not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Ma Tseuk Leng & San Uk Ha and Shek Kiu Tau village cluster.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

7. The Sites and Their Surrounding Areas (Plans A-2a to A-4c)

- 7.1 The Sites are:
- (a) covered with vegetation;
 - (b) located in close proximity to the village cluster of Ma Tseuk Leng San Uk Ha village; and
 - (c) not accessible by vehicle (**Plan A-2a**).
- 7.2 The surrounding areas are settled valley landscape character comprising village houses, vegetation area and tree clusters.

8. Planning Intention

The planning intention of the “AGR” zone in the Luk Keng and Wo Hang area 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.

9. Comments from Relevant Government Departments

- 9.1 The applications have been assessed against the assessment criteria at **Appendix II**. The assessment is summarized in the following table:

[illegible]

³ The land required to meet Small House demand in Ma Tseuk Leng & San Uk Ha Villages is about 8.4 ha (equivalent to 336 Small Houses sites) while that of Shek Kiu Tau is about 9.6 ha (equivalent to 385 Small House sites).

⁴ Among the 28 outstanding Small House applications, 14 of them fall within the “V” zone and 14 straddle or outside the “V” zone. For those 14 applications straddling or being outside the “V” zone, none of them have obtained valid planning approval from the Board.

⁵ Ma Tseuk Leng and San Uk Ha share the same 'VE' while Shek Kiu Tau has its own 'VE' without overlapping with one another. As the three villages are located within the same "V" zone, the total number of outstanding Small House applications for Ma Tseuk Leng & San Uk Ha and Shek Kiu Tau village cluster (i.e. 28) is adopted for assessment against the land availability within the "V" zone (i.e. about 1.7 ha or equivalent to 67 Small Houses sites).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				possess potential for agricultural rehabilitation. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water sources are also available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/development?	✓		The proposed Small Houses are not incompatible with the surrounding areas predominated by village houses, vegetation area and tree clusters. (Plan A-3).
6.	Within Water Gathering Grounds (WGGs)?		✓	Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications.
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 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 this, the applications only involve the construction of one Small House on each Site and she considers that the applications can be tolerated unless being rejected on other grounds.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications.
11.	Sewerage 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?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective. Significant adverse impact on the landscape character and the existing landscape resources within the Sites arising from the proposed developments is not anticipated.
13.	Local objections conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N), HAD) has 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) DLO/N, LandsD;
- (b) CE/MN, DSD;
- (c) DEP;
- (d) DAFC;
- (e) CTP/UD&L, PlanD;
- (f) D of FS;
- (g) C for T;
- (h) DO(N), HAD;
- (i) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

9.3 The following government departments have no objection to/no comment on the applications:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Building Surveyor/New Territories West, Buildings. Department (CBS/NTW, BD);
- (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and

- (d) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comments Received During Statutory Publication Period (Appendix VIa to VIc)

On 6.2.2024, the applications were published for public inspection. During the statutory public inspection period, each application received one comment from the Chairman of Sheung Shui District Rural Committee who indicates no comment on the applications.

11. Planning Considerations and Assessment

- 11.1 The applications are for a proposed Small House development at each of the Sites zoned “AGR” on the OZP. The proposed 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, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the applications from agricultural point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as road and water source is available; and the Sites possess potential for agricultural rehabilitation.
- 11.2 The Sites are situated in an areas of settled valley landscape character comprising village houses, vegetation area and tree clusters. The proposed Small House developments are not incompatible with the surrounding areas. CTP/UD&L of PlanD has no objection to the applications as significant adverse impacts on the landscape character and existing landscape resources within the Sites arising from the proposed developments is not anticipated. C for T has reservation on the subject applications and considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed developments only involve construction of one Small House on each Site, the applications could be tolerated unless being rejected on other grounds. Other relevant government departments, including CEDD, DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no adverse comment on / no objection to the application
- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House applications for Ma Tseuk Leng & San Uk Ha and Shek Kiu Tau village cluster is 28 while the 10-year Small House demand forecast is 693. Based on PlanD’s latest estimate, about 1.7 ha (equivalent to 67 Small House sites) is available within the “V” zone covering the concerned villages. While the amount of land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among 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 as 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 infrastructures and services. Nevertheless, the Sites are the subjects of three previously approved applications submitted by the same applicants for the same use. Compared with the previous applications, the major development parameters of the proposed three Small Houses are generally the same. Moreover, DLO/N of LandsD advises that the Small

House grant applications are still under processing. In this regard, sympathetic consideration may be given to the applications.

- 11.4 There have been 31 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**). Among them, three applications (No. A/NE-LK/109, 149 and 150) were approved by the Committee between November 2017 and June 2023 after the Board's formal adoption of a more cautious approach mainly on considerations as detailed in paragraph 6.3. The planning circumstances of the current applications are similar to those approved applications in that the sites are the subject of previous approvals.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 15.3.2028, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The recommended advisory clauses are attached at **Appendix VII**.
- 12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are 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 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 and advisory clause(s) to be attached to the permission, 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

Appendix Ia	Application Form (No. A/NE-LK/156) with attachments received on 30.1.2024
Appendix Ib	Application Form (No. A/NE-LK/157) with attachments received on 30.1.2024
Appendix Ic	Application Form (No. A/NE-LK/158) with attachments received on 30.1.2024
Appendix Id	SI for Application No. A/NE-LK/156 received on 1.2.2024
Appendix Ie	SI for Application No. A/NE-LK/157 received on 1.2.2024
Appendix If	SI for Application No. A/NE-LK/158 received on 1.2.2024
Appendix Ig	FI for Application No. A/NE-LK/156 received on 7.3.2024
Appendix Ih	FI for Application No. A/NE-LK/157 received on 7.3.2024
Appendix Ii	FI for Application No. A/NE-LK/158 received on 7.3.2024
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VIa	Public Comment on No. A/NE-LK/156
Appendix VIb	Public Comment on No. A/NE-LK/157
Appendix VIc	Public Comment on No. A/NE-LK/158
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-3	Proposed Small Houses Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
MARCH 2024**