

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

APPLICATIONS NO. A/NE-PK/149, 150 & 151

<u>Applicants</u>	: Mr LIU Lai Wing Mr LIU Kevin Hou Wah Liu Mr FUNG Wai Hang all represented by T.H. & Associates Limited	(Application No. A/NE-PK/149) (Application No. A/NE-PK/150) (Application No. A/NE-PK/151)
<u>Sites</u>	: Lot 1585 S.A in D.D. 91 Lot 1585 S.B in D.D. 91 Lot 1594 S.E in D.D. 91 all in Kai Leng Village, North District, New Territories	(Application No. A/NE-PK/149) (Application No. A/NE-PK/150) (Application No. A/NE-PK/151)
<u>Site Areas</u>	: 103.3 m ² (about) 111.7 m ² (about) 149.1 m ² (about)	(Application No. A/NE-PK/149) (Application No. A/NE-PK/150) (Application No. A/NE-PK/151)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)	
<u>Plan</u>	: Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11	
<u>Zoning</u>	: “Agriculture” (“AGR”)	
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House)	

1. The Proposals

1.1 The applicants, who claim themselves as indigenous villagers of Sheung Shui Village and Liu Pok Village¹, seek planning permissions to build a NTEH (Small House) on each of the application sites (the Sites) (**Plans A-1 and A-2a**). The Sites are 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 NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use in the “AGR” zone, which requires planning permission from the Town Planning Board (the Board).

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

Total Floor Area	: 195.09 m ²
Number of Storeys	: 3

¹ According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants’ eligibility for Small House concessionary grants has yet to be ascertained.

Building Height	:	8.23 m
Roofed Over Area	:	65.03 m ²

The uncovered area of the Sites would be used as gardens of the proposed Small Houses. The layout of the three proposed Small Houses (including septic tanks) is shown on **Drawings A-1, A-2 and A-3**.

- 1.3 The Sites are the subject of three previous applications (No. A/NE-PK/105, 106 and 108) for Small House development submitted by the same applicants, which were approved by the Rural and New Town Planning Committee (the Committee) on 3.2.2017. All three planning permissions lapsed on 4.2.2021. Compared with the previous applications, there are no changes in the site area, major development parameters and Small House footprint under the current applications.
- 1.4 In support of the applications, the applicants have submitted the Application Forms with attachments which were received on 14.5.2021 (Application No. A/NE-PK/149) and 17.5.2021 (Applications No. A/NE-PK/150 and 151) (**Appendices Ia, Ib and Ic**).

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in part 8 of the Application Forms in **Appendices Ia, Ib and Ic**. They can be summarized as follows:

- (a) the applicants are indigenous villagers. The proposed Small Houses are located entirely within the village 'environs' ('VE') of Kai Leng Village;
- (b) land supply within the "V" zone of Kai Leng Village is very limited and there is a high demand of Small House in the area. It is nearly impossible for the applicants to purchase land parcels within the "V" zone to build their Small Houses;
- (c) the proposed developments are compatible with the surrounding village environment and they will not cause adverse environmental, landscape, traffic and drainage impacts;
- (d) previous planning permissions have been granted to the applicants; and
- (e) similar applications for proposed Small House developments within the 'VE' of Kai Leng Village were approved by the Board in the past.

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

The applicants are the sole "current land owners" of 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 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 Applications

- 5.1 The Sites of A/NE-PK/149, 150 and 151 are the subject of previous applications (No. A/NE-PK/105, 106 and 108 respectively) for proposed Small House developments submitted by the same applicants, which were approved with conditions by the Committee on 3.2.2017 mainly on the considerations of being generally in compliance with the Interim Criteria in that more than 50% of the Small House footprints fell within the 'VE' and there was a general shortage of land in meeting the demand for Small House development in the 'V' zone of the concerned village at the time of consideration; being not incompatible with the surrounding area; and no adverse impacts. These planning permissions lapsed on 4.2.2021. Compared with the latest previous applications, there is no change in the site area, major development parameters and Small House footprint under the current applications.
- 5.2 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 101 similar applications involving 89 sites in the vicinity of the Sites for Small House development within/partly within the same "AGR" zone on the OZP 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 mainly on similar considerations for approval of the applications mentioned in paragraph 5.1 above.
- 6.3 Details of the applications are summarized at **Appendix IV**.

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

- 7.1 The Sites are:
- (a) currently flat, vacant, partly paved and partly covered with wild grasses;
 - (b) located about 50m – 80m to the south of the village proper of Kai Leng Village (**Plan A-2b**); and
 - (c) not served by proper vehicular access.
- 7.2 The surrounding areas have the following characteristics:
- (a) mainly of rural landscape character dominated by active/fallow agricultural land, village houses and temporary structures;
 - (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 over 30m to the south of the Sites of

Applications No. A/NE-PK/149 and 150 and immediately south of the Site of Application No. A/NE-PK/151(**Plan A-3**).

8. Planning Intention

The planning intention of the “AGR” zone in the Ping Kong 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 in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Application Sites - Footprints of the proposed Small Houses	- -	100% 100%	Both the Sites and the proposed Small House footprints of all three applications fall entirely within “AGR” zone.
2.	Within ‘VE’? - Application Sites - Footprints of the proposed Small Houses	100% 100%	- -	Both the Sites and the proposed Small House footprints of all three applications fall entirely within the ‘VE’ of Kai Leng Village.
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 Village: about 8.7 ha (equivalent to 348 Small House sites). The outstanding Small House applications for Kai Leng Village are 69 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 Village: about 0.63 ha (equivalent to 25 Small House sites).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agriculture point of view as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The surrounding area are mainly of rural landscape character dominated by active/fallow agricultural land, village houses and temporary structures.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?	✓		Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) advises that an existing water mains traversing the Sites of Applications No. A/NE-PK/149 and 150 may be affected (Plan A-2a), which may need to be diverted to Government land outside the site boundary of the proposed developments.
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.
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. Notwithstanding the above, the applications involving the construction of limited number of Small Houses can be tolerated unless they are rejected on other grounds.
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.
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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping impact?		✓	Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) has no objection to the applications as the proposed developments are not entirely incompatible with the surrounding rural landscape character and significant adverse landscape impact arising from the proposed developments is not anticipated.
13.	Local objection conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N), HAD) advises that the incumbent North District Council Member, the Chairman of Sheung Shui District Rural Committee, the Indigenous Inhabitant Representative, the Resident Representative (IIR) of Kai Leng and the Chairman of Fung Shui Area Committee 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 IV**.

- (a) DLO/N, LandsD;
- (b) CE/MN, DSD;
- (c) DEP;
- (d) CE/C, WSD;
- (e) C for T;
- (f) DAFC;
- (g) CTP/UD&L, PlanD;
- (h) D of FS; and
- (i) DO(N), HAD.

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

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

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

On 21.5.2021, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, four public comments on each application were received. One individual indicates no comment on the applications. The remaining three comments received from Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong Limited and an individual object to the applications mainly for the reasons that the proposed developments are not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone of Kai Leng; the setting of undesirable precedents for similar applications in the area; the use of septic tank would cause environmental concern; and the proposed developments may involve a manipulation of the villagers’ Small House rights to abuse Small House Policy.

11. Planning Considerations and Assessments

- 11.1 These applications are for proposed Small House developments in areas zoned “AGR” on the OZP. The proposed 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 agricultural point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 Both the Sites and the proposed Small House footprint under each application fall entirely within the ‘VE’ of Kai Leng Village. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kai Leng is 69 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 0.63 ha (equivalent to 25 Small House sites) of land are available within the “V” zone of Kai Leng for Small House development (**Plan A-2b**).
- 11.3 The Sites are currently flat, vacant, partly paved and partly covered with wild grasses. The village proper of Kai Leng is located about 50m to 80m to the north of the Sites and the active agricultural land is over 30m to the south of the Sites of Applications No. A/NE-K/149 and 150 and immediately south of the Site of Application No. A/NE-PK/151. The areas in the vicinity of the Sites are largely vacant, comprising many sites with planning permissions for Small House developments (**Plan A-2a**). The implementation of these approved Small Houses are forming a new village cluster in the locality. The proposed Small Houses are not incompatible with the surrounding rural landscape character dominated by active/fallow farmland, village houses and temporary structures. CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that only limited number of Small Houses are involved, they could be tolerated. CE/C of WSD advises that the existing water mains at the Sites of Applications No. A/NE-PK/149 and 150 may be affected and should be diverted or protected. An approval condition is recommended to address the requirement. CE/MN of DSD also advises that an approval condition on the submission and implementation of drainage proposal is required. Other Government departments consulted, including D of FS, DEP and DO(N) of HAD, have no adverse comment on or no objection to the applications.

- 11.4 Regarding the Interim Criteria (**Appendix II**), the footprints of the three proposed Small Houses fall entirely within the ‘VE’ of Kai Leng (**Plan A-2a**) and land available within the “V” zone (about 0.63 ha or equivalent to 25 Small House sites) is insufficient to meet even the 69 outstanding Small House applications. As such, the applications generally comply with the Interim Criteria as more than 50% of the Small House footprint falling within the ‘VE’ and there is a general shortage of land within the “V” zone to meet the Small House demand. Besides, the Sites are the subject of previously approved planning applications No. A/NE-PK/105,106 and 108 for the same use submitted by the same applicants. Compared with the previous applications, there is no change in the major planning parameters and the layout of the proposed Small House. DLO/N advises the Small Houses grant applications on the Sites have been received and are under processing.
- 11.5 A total of 101 similar applications within the same “AGR” zone in the vicinity of the Sites 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 at the time of consideration; they were not incompatible with the surrounding area and were unlikely cause adverse impacts. The circumstances of the current applications are largely the same as these similar cases.
- 11.6 Regarding the adverse public comments mentioned in paragraph 10, the government departments’ comments and planning assessments above are relevant. In respect of the public comment on suspected manipulation of Small House rights, LandsD advises that all applications for Small House shall be processed in accordance with Small House Policy.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 9.7.2025, 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

For Applications No. A/NE-PK/149, 150 and 151

- (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

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- (c) 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.

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 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

Appendices Ia, Ib&Ic	Application Forms with Attachments received on 14.5.2021 (Application No. A/NE-PK/149) and 17.5.2021 (Applications No. A/NE-PK/150 and 151)
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous s.16 Applications
Appendix IV	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the "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
Drawings A-1, A-2&A-3	Proposed Small House Layout Plans
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
JULY 2021**