

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-PK/157&158

<u>Applicants</u>	: Mr. FUNG Sean Ka Long Mr. LIU Kwong Ming (Both represented by T.H. & Associates Limited)	(Application No. A/NE-PK/157) (Application No. A/NE-PK/158)
<u>Sites</u>	: Lot 1511 S.F Lot 1512 S.B both in D.D. 91, Kai Leng, Sheung Shui, New Territories	(Application No. A/NE-PK/157) (Application No. A/NE-PK/158)
<u>Site Area</u>	: about 146.8 m ² about 137.8 m ²	(Application No. A/NE-PK/157) (Application No. A/NE-PK/158)
<u>Leases</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 Liu Pok (Application No. A/NE-PK/157) and Sheung Shui (Application No. A/NE-PK/158) respectively¹, 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 According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants’ eligibilities for Small House grants have yet to be ascertained.

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

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

The uncovered area is proposed as garden. The layout of the two proposed Small Houses and locations of the proposed septic tanks are shown on **Drawings A-1 and A-2**.

1.3 The Sites are the subject of two previous applications (No. A/NE-PK/113 and 44) for Small House developments, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 3.3.2017 and 13.12.2013 respectively (the applicants for Applications No. A/NE-PK/113 and 157 are different while that for Applications No. A/NE-PK/44 and 158 is the same). The planning permissions lapsed on 4.3.2021 and 14.12.2021. Compared with the previous applications, there are no changes in the site area, major development parameters and Small House footprints under the current applications.

1.4 In support of the applications, the applicants have submitted the Application Forms with attachments on 22.11.2021 (**Appendices Ia and Ib**).

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Appendix G under Part 8 of the Application Forms at **Appendices Ia and Ib**. 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 "Village Type Development" ("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 within the "V" zone to build their Small Houses;
- (c) the proposed developments are compatible with the surrounding rural environment and will not cause adverse environmental, landscape, traffic and drainage impacts;
- (d) there is no ditch or stream course within 30 metres of the Sites;
- (e) previous planning permission (Application No. A/NE-PK/44) has been granted to the applicant of Application No. A/NE-PK/158 under Section 16 of the Town Planning Ordinance; and
- (f) 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 on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Applications

5.1 The Sites are the subject of two previous applications (No. A/NE-PK/113 and 44) for Small House developments, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 3.3.2017 and 13.12.2013 respectively (the applicants for Applications No. A/NE-PK/113 and 157 are different while that for Applications No. A/NE-PK/44 and 158 is the same) mainly on the consideration of being generally in compliance with the Interim Criteria that more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Kai Leng (**Plans A-1, A-2 and A-2b**) and there was a general shortage of land in the “V” zone of the concerned village in meeting the demand for Small House development at the time of consideration. These planning permissions lapsed on 4.3.2021 and 14.12.2021. Compared with the previous applications, there are no changes in the site area, major development parameters and Small House footprints 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 109 similar applications involving 90 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 September 2021 on similar considerations for approval of the applications mentioned in paragraph 5.1 above.

6.3 Details of the similar applications are summarized at **Appendix IV**.

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

7.1 The Sites are:

- (a) currently vacant and overgrown with wild grasses;
- (b) located about 75m to 85m to the southwestern of Kai Leng Village; and
- (c) not accessible by vehicles.

7.2 The surrounding areas have the following characteristics:

- (a) mainly of rural landscape character comprising vegetated areas, farmland, temporary structures and village houses;
- (b) the areas in the immediate neighbourhood of the Sites are mainly vacant land with planning approvals for Small House developments and Small House grant applications being processed by DLO/N, LandsD;
- (c) further north and northeast is the village proper of Kai Leng with village houses intermixed with vacant land/fallow agricultural land; and
- (d) active agricultural land is found about 50m and 5m to the west and southeast of Applications No. A/NE-PK/157 and 158 respectively.

8. **Planning Intention**

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

2.	Within 'VE'? - Application Sites - Footprints of the proposed Small Houses	100% 100%	- -	The Sites and the proposed Small Houses footprints fall entirely within '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 8.73 ha (equivalent to 349 Small House sites). The outstanding Small House applications are 70 while the 10-year Small House demand forecast is 279.
	Sufficient land in "V" zone to meet outstanding Small House applications?		✓	<u>Land Available</u> - Land available to meet Small House demand within the "V" zone of Kai Leng Village: about 0.64 ha (equivalent to about 25 Small House sites).
4.	Compatible with the planning intention of "AGR" zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) advises that agricultural activities are active in the vicinity of the Site, and agricultural infrastructures are available. The applications are not supported from agricultural point of view as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The proposed Small Houses are not incompatible with the surrounding rural landscape character comprising vegetated areas, farmland, temporary structures and village houses.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

8.	Need for provision of fire services 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) advises that Small House developments should be confined within the “V” zone as far as possible. Notwithstanding the above, the application each involving the development of only one Small House can be tolerated.
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.
12.	Landscape impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications as the proposed developments are not entirely incompatible with the surrounding rural environment 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 Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Kai Leng, the Chairman of Sheung Shui District Rural Committee, 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 V**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (d) DO(N), HAD.

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

On 30.11.2021, the applications were published for public inspection. During the statutory public inspection period, two public comments on each application were received. For both applications, one individual indicates no comment while the remaining individual raises objection mainly for reasons that the proposed developments will cause an overcrowding living environment; and adverse traffic, fire safety and environmental impacts.

11. Planning Considerations and Assessments

11.1 This 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 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 agricultural point of view as the Sites possess potential for agricultural rehabilitation.

11.2 The proposed Small House footprint under both applications 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 Village is 70 while the 10-year Small House demand forecast for the same village is 279. Accordingly to the latest estimate by PlanD, about 0.64 ha (or equivalent to

about 25 Small House sites) of land is available within the “V” zone of Kai Leng Village for Small House development (**Plan A-2b**).

- 11.3 The Sites are currently vacant, covered by wild grasses and located about 75m to 85m to the southwestern of Kai Leng Village (**Plans A-2a and A-4**). The area in the vicinity of the Site is 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 comprising vegetated areas, farmland and village houses. Significant adverse landscape impact arising from the proposed developments is not anticipated. In this regard, CTP/UD&L of 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 one Small House is involved in each application, both applications could be tolerated. Other government departments consulted, including DEP, CE/MN of DSD, CE/C of WSD 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 footprint of both proposed Small Houses fall within the ‘VE’ of Kai Leng Village (**Plan A-2a**) and land available within the “V” zone (about 0.64 ha or equivalent to about 25 Small House sites) is insufficient to meet even the 70 outstanding Small House applications. As such, the applications generally comply with the Interim Criteria. Besides, the Sites are the subject of previously approved planning applications (No. A/NE-PK/113 and 44) for the same use submitted by a different applicant (Application No. A/NE-PK/157) and the same applicant (Application No. A/NE-PK/158). Compared with the previous applications, there is no change in the major planning parameters and the layout of the proposed Small Houses. DLO/N, LandsD advises that the Small House grant application for A/NE-PK/157 has been received and is under processing while that of A/NE-PK/158 was approved on 17.10.2019. Sympathetic consideration may be given to the current applications.
- 11.5 A total of 109 similar applications within the same “AGR” zone in the vicinity of the Sites were approved by the Committee between June 2001 and September 2021, mainly on the 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 would unlikely cause adverse impacts. The circumstances of the current applications are largely the same as these similar applications.
- 11.6 Regarding the adverse public comment mentioned in paragraph 10, the government departments’ comments and planning assessments above are relevant.

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 the permissions shall be valid until 14.1.2026, 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 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; and
- (b) 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 applications, 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 for the 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

Appendix Ia and Ib	Application forms with attachments received on 22.11.2021
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Comments from relevant Government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawings A-1 and A-2	Proposed Small House layout plans
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available within “V” zone of Kai Leng Village for Small House development
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
JANUARY 2022**