

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

**APPLICATIONS NO. A/NE-PK/159, 160&161**

<b><u>Applicants</u></b>	: Mr. LIU Yip Sun Mr. LIU Chung Kwan Edmond Mr. LIU Kin Wai (All represented by Mr. Pang Hing Yeun)	(Application No. A/NE-PK/159) (Application No. A/NE-PK/160) (Application No. A/NE-PK/161)
<b><u>Sites</u></b>	: Lot 1543 S.A Lot 1543 S.B Lot 1543 S.C (All in D.D. 91, Kai Leng, Sheung Shui, New Territories)	(Application No. A/NE-PK/159) (Application No. A/NE-PK/160) (Application No. A/NE-PK/161)
<b><u>Site Area</u></b>	: about 100.2m <sup>2</sup> about 92.3m <sup>2</sup> about 102.9m <sup>2</sup>	(Application No. A/NE-PK/159) (Application No. A/NE-PK/160) (Application No. A/NE-PK/161)
<b><u>Leases</u></b>	: Old Schedule Agricultural Lots held under Block Government Lease	
<b><u>Plan</u></b>	: Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11	
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)	
<b><u>Applications</u></b>	: 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<sup>1</sup>, 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).

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<sup>1</sup> According to District Lands Officer/North, Lands Department (DLO/N, LandsD), eligibility for Small House grant of the applicants has yet to be ascertained.

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

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

The uncovered areas will be used for circulation. The layout of the three proposed Small Houses and locations of the proposed septic tanks are shown on **Drawings A-1, A-2 and A-3**.

1.3 The Sites are the subject of three previous applications for Small House developments, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 22.11.2013. All these planning permissions have lapsed on 23.11.2017. Details of these previous applications are set out in paragraph 5.1 below.

1.4 In support of the applications, the applicants have submitted the Application Forms with attachments on 25.3.2022 (**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 at **Appendices Ia, Ib and Ic** as summarized below:

- (a) the applicants are indigenous villagers and have the right to build Small Houses at the Sites under the Government's Small House Policy;
- (b) the Sites are the only available land owned by the applicants for Small House developments;
- (c) adverse traffic impact is not anticipated as the Sites are only accessible by a footpath but not vehicular roads;
- (d) the proposed developments will not cause adverse environmental impacts as no land filling, excavation and tree felling will be involved; and
- (e) since the granting of last planning permissions (No. A/NE-PK/40, 41&42), the applications for Small House developments are yet to be approved by LandsD and the applicants have forgotten to apply for extending the validity period of the planning permissions. Hence, fresh planning applications are required.

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

The applicants are the sole "current land owners" of the respective Site. 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 three previous applications (No. A/NE-PK/40, 41 and 42) for Small House developments submitted by the same applicants (for No. A/NE-PK/159 and 160) or different applicants (for A/NE-PK/161). All applications were approved with conditions by the Committee on 22.11.2013 mainly on the consideration that more than 50% of the footprint of the proposed Small House falls within the 'VE' (**Plans A-1, A-2 and A-2b**) and there was a general shortage of land in the "Village Type Development" ("V") zone in meeting the demand for Small House development at the time of consideration. All these planning permissions have lapsed on 23.11.2017. Compared with the previous applications, there are no changes in major development parameters and layout of Small House 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 111 similar applications involving 92 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 January 2022 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) vacant and covered with wild grasses; and
- (b) located about 40m to the south of the village proper of Kai Leng and fall entirely within the 'VE'.

7.2 The surrounding areas have the following characteristics:

- (a) the Sites are located in an area of rural landscape character comprising village houses, temporary structures, active/fallow farmlands and scattered tree groups; and
- (b) the areas in the immediate neighbourhood of the Sites are mainly vacant land with planning approvals for Small House developments and Small House grants being processed by Lands Department.

## 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:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
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)?		✓	<b><u>Land Required</u></b> - 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

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
	Sufficient land in “V” zone to meet outstanding Small House applications?		✓	<p>demand forecast is 279.</p> <p><u>Land Available</u></p> <p>- 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).</p>
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications 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 village houses, temporary structures and active/fallow farmlands.
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 applications each involving the development of only one Small House can be tolerated.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
10.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that approval conditions on the submission and implementation of drainage proposal and sewerage connection proposal are 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 and the Chairman of Sheung Shui District Rural 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 their comments 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 Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (e) DO(N), HAD.

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

On 1.4.2022, the applications were published for public inspection. During the statutory public inspection period, two public comments on applications No. A/NE-PK/159 and 161 and three public comments on application No. A/NE-PK/160 were received. One individual indicates no comment on all three applications. Another individual objects to all three applications mainly for reasons that the previous planning permissions for the Sites have already lapsed; the proposed developments will lead to inefficient use of land resources; and Small House developments should be confined within the 'VE'. An individual raises objection to application No. A/NE-PK/160 for reasons that the proposed development will cause adverse traffic, fire safety and environmental impacts.

## 11. **Planning Considerations and Assessments**

- 11.1 These applications are for proposed Small House developments in an area 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 Site possesses potential for agricultural rehabilitation.
- 11.2 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**). According to the 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. Based on the estimate by Planning Department, 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**). In this regard, there is insufficient

land to meet the 70 outstanding Small House applications. As such, the applications generally comply with the Interim Criteria.

- 11.3 The Sites are currently vacant and covered with wild grasses. The proposed Small Houses are not incompatible with the surrounding rural landscape character comprising village houses, temporary structures, farmlands, vegetated areas and trees. CTP/UD&L of PlanD has no objection to the applications from the landscape planning point of view as significant adverse landscape impact arising from the proposed developments is not anticipated. C for T considers that Small House developments should be confined within the “V” zone as far as possible but considers that the applications each involving only one Small House could be tolerated. Other concerned government departments including DEP, CE/MN of DSD, CE/C of WSD and D of FS have no objection to nor adverse comments on the applications.
- 11.4 The Sites are the subject of three previously approved applications as set out in paragraph 5.1 above. Compared with the previous applications, there is no change in the major planning parameters and layout of the proposed Small Houses. The circumstances for approving these previous applications are still valid. Furthermore, DLO/N, LandsD advises that the Small House grant applications for the current applications have been received and are under processing. Sympathetic consideration may be given to the current applications.
- 11.5 A total of 111 similar applications within the same “AGR” zone in the vicinity of the Sites were approved by the Committee between June 2001 and January 2022, mainly on the considerations as detailed in paragraph 6.2 above. The circumstances of the current applications are largely the same as these similar applications.
- 11.6 Regarding the adverse public comments mentioned in paragraph 10, the 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, 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 20.5.2026, 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 Condition

- 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**

<b>Appendix Ia to Ic</b>	Application forms with attachments received on 25.3.2022
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Comments from relevant Government departments
<b>Appendix VI</b>	Public comments
<b>Appendix VII</b>	Recommended advisory clauses
<b>Drawings A-1 to A-3</b>	Proposed Small House layout plans
<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 “V” zone of Kai Leng Village for Small House development
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photo

**PLANNING DEPARTMENT  
MAY 2022**