

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-PK/163&164

<u>Applicants</u>	: Mr. LIU Wai Hey Mr. LIU Wai Lun both represented by T.H. & Associates Limited	(Application No. A/NE-PK/163) (Application No. A/NE-PK/164)
<u>Sites</u>	: Lot 1512 S.C Lot 1512 S.D both in D.D. 91, Kai Leng, Sheung Shui, New Territories	(Application No. A/NE-PK/163) (Application No. A/NE-PK/164)
<u>Site Areas</u>	: about 138.4m ² about 140.4m ²	(Application No. A/NE-PK/163) (Application No. A/NE-PK/164)
<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) at each of the application sites	

1. The Proposals

1.1 The applicants, who claim themselves as indigenous villagers of Sheung Shui Heung¹, seek planning permissions to build a NTEH (Small House) on each of the application sites (the Sites) in Kai Leng which fall within an area zoned “AGR” on the OZP (**Plan A-1**). 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)’ within the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the two 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 uncovered areas will be used 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 According to the District Lands Officer/North, Lands Department (DLO/N, LandsD), eligibility for Small House grant of the applicants of No. A/NE-PK/163 and 164 has been ascertained.

- 1.3 Each of the Sites is the subject of a previously approved application (A/NE-PK/48 and 49) submitted by the same applicants under the current applications for the same use which were approved by the Rural and New Town Planning Committee (the Committee) on 9.5.2014. 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 following documents:
- (a) Application Forms with attachments received on 30.6.2022 (**Appendices Ia and Ib**)
 - (b) Further Information (FI) received on 16.8.2022 (**Appendices Ic and Id**)
 - (c) FI received on 18.8.2022 (**Appendix Ie**)

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 and Ib**. They can be summarized as follows:

- (a) the applicants are indigenous villagers and are entitled for Small House grant under the Small House Policy;
- (b) the Sites fall entirely/largely within the village ‘environs’ (‘VE’) of Kai Leng Village and are in proximity to the “Village Type Development” (‘V’) zone ranging from 90m to 98m. The proposed developments are considered compatible with the surrounding rural environment;
- (c) land supply within “V” zone of Kai Leng Village is very limited and there is a high demand for Small House in the area. It is nearly impossible for the applicants to purchase land within the “V” zone to build their Small Houses;
- (d) there are no ditches or streamcourse within 30m of the Sites. The proposed development would not cause adverse environmental impacts as no tree felling and land filling would be involved. Adverse traffic impact is not anticipated as the Sites are only accessible by a footpath; and
- (e) the Sites were the subject of previous planning approvals, and there are similar planning applications for Small House development approved in the vicinity.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the sole “current land owners”. 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. Extracts of the latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Applications

5.1 Each of the Sites is the subject of a previous application (No. A/NE-PK/48 and 49) for the same use submitted by the same applicants of the current applications, which were approved by the Committee on 9.5.2014 mainly on consideration of being in line with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fall within the 'VE' of Kai Leng and there was a general shortage of land to meet the demand for Small House at the time of consideration. Both planning permissions have lapsed on 10.5.2022. Compared with the previous applications, except that the locations of the proposed septic tank under both applications are changed, their major planning parameters and layout of the proposed Small Houses remain unchanged.

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 114 similar applications involving 90 sites within/partly within the same "AGR" zone in the vicinity of the Sites 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 May 2022 on similar considerations for the approval of previous applications mentioned in paragraph 5.1 above.

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

6.4 There are another two applications (No. A/NE-PK/165 and 166) for Small House development to the northeast of the Sites, which will be considered by the Committee at the same meeting with the current applications.

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4)

7.1 The Sites are:

- (a) vacant and covered with overgrown;
- (b) accessible via a footpath; and
- (c) located about 90m to 100m to the south of the village proper of Kai Leng

and fall entirely (A/NE-PK/163) or largely (A/NE-PK/164) within the 'VE'.

- 7.2 The surrounding areas are predominantly rural in character, occupied by active/fallow agricultural land, village houses, vegetated areas and temporary structures (**Plans A-2a and A-3**). 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.

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 footprints of the proposed Small Houses fall entirely within the "AGR" zone.
2.	Within 'VE'? <u>No. A/NE-PK/163</u> - Application Site - Footprint of the proposed Small House <u>No. A/NE-PK/164</u> - Application Site - Footprint of the proposed Small House	 100% 100% 75% 87%	 - - 25% 13%	 The Site and the footprint of the proposed Small House under Application No. A/NE-PK/163 fall entirely within 'VE' of Kai Leng. About 75% of the Site and 87% of the proposed Small House footprint under Application No. A/NE-PK/164 fall within the 'VE' of Kai Leng respectively.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 8.7 ha (equivalent to 348 Small House sites). The outstanding Small House applications are 69 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: 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) does not support the applications 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 active/fallow agricultural land, village houses, vegetated areas and temporary structures.
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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 requiring 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 from landscape planning point of view as the proposed Small Houses are not incompatible with the surrounding environment and significant adverse impact on existing landscape resources is not anticipated.
13.	Geotechnical impact?		✓	
14.	Local objection conveyed by District Officer (North), Home Affairs Department (DO(N), HAD)?		✓	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 comments from government departments are at **Appendix V**.

- (a) DLO/N, LandsD;
- (b) DAFC;
- (c) C for T;
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) DEP;
- (f) CE/MN, DSD;
- (g) CTP/UD&L, PlanD;

- (h) D of FS; and
- (i) DO(N), HAD.

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

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

The applications were published for public inspection. During the statutory public inspection period, two public comments were received from individuals on both applications. One individual indicates no comment on both applications. Another individual objects to the applications for reasons that the previous planning permissions for the Sites have already lapsed; and the proposed Small House developments will lead to inefficient use of land resources.

11. Planning Considerations and Assessments

- 11.1 The applications are for proposed Small House at each of the Sites which falls within an area zoned “AGR” on the OZP. The proposed Small House 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 Regarding the Interim Criteria, more than 50% of the footprint of the proposed Small Houses fall within the ‘VE’ of Kai Leng. According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Kai Leng is 69 while the 10-year Small House demand forecast is 279. Based on the latest estimate by PlanD, about 0.64 ha of land (or equivalent to about 25 Small House sites) is available within the “V” zone concerned. In this regard, there is insufficient land within the “V” zone to meet the 69 outstanding Small House applications. As such, the applications generally comply with the Interim Criteria.
- 11.3 The Sites are currently vacant and covered with overgrown. They are located about 90m to 100m to the south of the village proper of Kai Leng, where vacant land with planning approvals for Small House developments and Small House grant applications being processed by DLO/N, LandsD are found at the immediate surrounding of the Sites. The proposed Small Houses are not incompatible with the surrounding environment comprising active/fallow agricultural land, village houses, vegetated areas and temporary structures. CTP/UD&L of PlanD has no objection to the applications as significant adverse

landscape impact is not anticipated. C for T 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 or no adverse comment on the applications.

- 11.4 Each of the Sites is the subject of a previously approved application as set out in paragraph 5.1 above. Compared with the previous applications, except for the change in the locations of proposed septic tank under both applications are changed, major planning parameters and layout of the proposed Small Houses under both applications remain unchanged. Furthermore, DLO/N, LandsD advises that the Small House grant applications for both applications have been approved but pending execution. In view of the above, sympathetic consideration may be given to the current applications.
- 11.5 There are 114 approved similar applications within the same “AGR” zone in the vicinity of the Sites. The circumstances of the current applications are largely the same as these similar applications.
- 11.6 Regarding the public comment objecting to the applications as detailed in paragraph 10 above, comments of 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 above, 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 26.8.2026, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- the submission and implementation of a 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 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	Application form with attachments of Application No. A/NE-PK/163 received on 30.6.2022
Appendix Ib	Application form with attachments of Application No. A/NE-PK/164 received on 30.6.2022
Appendix Ic	FI of Application No. A/NE-PK/163 received on 16.8.2022
Appendix Id	FI of Application No. A/NE-PK/164 received on 16.8.2022
Appendix Ie	FI of Application No. A/NE-PK/164 received on 18.8.2022
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 VI	Public comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Proposed Small House layout plan of Application No. A/NE-PK/163
Drawing A-2	Proposed Small House layout plan of Application No. A/NE-PK/164
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within "V" zone
Plan A-3	Aerial photo
Plan A-4	Site photo