

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

**APPLICATIONS NO. A/NE-PK/167&168**

<b><u>Applicants</u></b>	: Mr. LIU Ki Cheung Mr. FUNG Wai Nang both represented by Mr. PANG Hing Yeun	(Application No. A/NE-PK/167) (Application No. A/NE-PK/168)
<b><u>Sites</u></b>	: Lot 1582 S.A Lot 1582 S.C both in D.D. 91, Kai Leng, Sheung Shui, New Territories	(Application No. A/NE-PK/167) (Application No. A/NE-PK/168)
<b><u>Site Areas</u></b>	: about 136.4m <sup>2</sup> about 151.2m <sup>2</sup>	(Application No. A/NE-PK/167) (Application No. A/NE-PK/168)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)	
<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) at each of the application sites	

**1. The Proposals**

1.1 The applicants, who claim themselves as indigenous villagers of Sheung Shui Heung<sup>1</sup>, seek planning permission to build a NTEH (Small House) at 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 <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m <sup>2</sup>

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

The uncovered areas will be used as circulation area for the houses. 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 Each of the Sites is the subject of a previously approved application 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 22.11.2013. 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 and (**Appendices Ia** and **Ib**) supplementary information (SI) received on 20.7.2022, 26.7.2022 and 27.7.2022
  - (b) Further Information (FI) received on 23.8.2022 (**Appendices Ic** and **Id**)

## **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 within the village ‘environs’ (‘VE’) of Kai Leng Village;
- (c) the Sites are the only land owned by the applicants for building Small Houses;
- (d) there are no streamcourse or trees within the Sites. The proposed developments would not cause adverse impacts on the surrounding environment; and
- (e) the Sites were the subject of previous planning approvals, and there are similar planning applications for Small House developments 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. 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/38 and 39) for the same use submitted by the same applicants of the current applications, which were approved by the Committee on 22.11.2013 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 22.11.2021. Compared with the previous applications, major planning parameters and layout of the proposed Small Houses are largely the same, except that the location of septic tank under Application No. A/NE-PK/168 has been slightly adjusted.

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 118 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 August 2022 on similar considerations for approval of the previous applications as 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 to A-4b)**

7.1 The Sites are:

- (a) vacant and covered with overgrown;
- (b) accessible by vehicles via a local track leading to Wah Hon Road to the north; and
- (c) located at about 45m to 55m to the south of the village proper of Kai Leng and fall entirely within its '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’? - Application Sites - Footprints of the proposed Small Houses	100% 100%	- -	The Sites and the footprints of the proposed Small Houses fall entirely within ‘VE’ of Kai Leng.
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 8.68 ha (equivalent to 347 Small House sites). The outstanding Small House applications are 68 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).

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
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 for domestic use.
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 the existing water mains will be affected and diversion or protection of the water mains found on sites are required.
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, provided that the proposed Small Houses would not encroach on any existing or planned EVA.
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.
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				(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) 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, three public comments were received from individuals on both applications. One individual indicates no comment on both applications. Other two individuals object to the applications for reasons that the previous planning permissions have already lapsed; the proposed Small House developments will cause an overcrowding living environment and adverse traffic, environmental and fire safety impacts, and lead to inefficient use of land resources.

**11. Planning Considerations and Assessments**

- 11.1 The applications are for proposed Small House on each of the Sites which fall 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/N, LandsD’s records, the total number of outstanding Small House applications for Kai Leng is 68 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 (**Plan A-2b**). In this regard, there is insufficient land within the “V” zone to meet the 68 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. The Sites are located at about 45m to 55m to the south of Kai Leng Village, where vacant land with planning approvals for Small House developments and Small House grant applications being processed by DLO/N, LandsD are found in 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 area, tree cluster 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 CE/C of WSD, DEP, CE/MN of DSD 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, their major planning parameters and layout of the proposed Small Houses are largely the same as the previous applications except that the location of septic tank of Application No. A/NE-PK/168 slightly adjusted. Furthermore, DLO/N, LandsD advises that the Small House grant applications for both applications

have been approved. In view of the above, sympathetic consideration may be given to the current applications.

- 11.5 There are total of 118 approved 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 comments 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 9.9.2026, 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

- (a) 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**

<b>Appendix Ia</b>	Application form with attachments and supplementary information of Application No. A/NE-PK/167 received on 20.7.2022, 26.7.2022 and 27.7.2022
<b>Appendix Ib</b>	Application form with attachments and supplementary information of Application No. A/NE-PK/168 received on 20.7.2022, 26.7.2022 and 27.7.2022
<b>Appendix Ic</b>	FI of Application No. A/NE-PK/167 received on 23.8.2022
<b>Appendix Id</b>	FI of Application No. A/NE-PK/168 received on 23.8.2022
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Detailed comments from relevant government departments
<b>Appendix VI</b>	Public comments
<b>Appendix VII</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Proposed Small House layout plan of Application No. A/NE-PK/167
<b>Drawing A-2</b>	Proposed Small House layout plan of Application No. A/NE-PK/168
<b>Plan A-1</b>	Location plan
<b>Plan A-2a</b>	Site plan
<b>Plan A-2b</b>	Estimated amount of land available for Small House development within "V" zone
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2022**