

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

**APPLICATION NO. A/NE-PK/176**

- Applicant** : Mr. LIU Hing Fuk represented by T. H. & Associates Limited
- Site** : Lots 1591 S.B and 1600 S.B RP in D.D. 91, Kai Leng, Sheung Shui, New Territories
- Site Area** : About 168.7m<sup>2</sup>
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

- 1.1 The applicant, who claims himself to be an indigenous villager of Sheung Shui Heung<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) falling within an area zoned “AGR” on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ within “AGR” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed Small House 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>  |
- 1.3 According to the applicant, the Site is accessible via a village path. The layout of the proposed Small House is shown in **Drawing A-1**.
- 1.4 The Site is the subject of a previous application (No. A/NE-PK/46) submitted by the same applicant of the current application for the same use which was approved by the Rural and New Town Planning Committee (the Committee) on 13.12.2013. Details of the previous application are set out in paragraph 5.1 below.

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<sup>1</sup> District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 11.1.2023 (**Appendix I**); and
- (b) Supplementary Information (SI) received on 16.1.2023 (**Appendix Ia**).

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**, as summarized below:

- (a) the applicant is an indigenous villager who wishes to build a Small House;
- (b) the Site falls entirely within the village ‘environs’ (‘VE’) of Kai Leng Village and is about 33m from the “Village Type Development” (“V”) zone of Kai Leng Village. Land available for Small House development within the “V” zone of Kai Leng Village is very limited and it is nearly impossible for the applicant to purchase land within the “V” zone;
- (c) the proposed development is considered compatible with the rural environment. There are no ditches or streamcourses within 30m from the Site and the proposed development will not involve any tree felling or land filling. The Site is not accessible by vehicles and the proposed development will not cause any traffic impact on the surrounding areas; and
- (d) the Site is the subject of a previously approved application, but the Small House grant application has not been approved which is beyond the control of the applicant. Also, there are similar applications outside the “V” zone of Kai Leng Village approved by the Board.

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

The applicant is the sole “current land owner” of the 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. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

## **5. Previous Application**

- 5.1 The Site is the subject of a previous planning application (No. A/NE-PK/46) for the same use submitted by the same applicant of the current application which was approved by the Committee on 13.12.2013 mainly on consideration that the proposed development was in line with the Interim Criteria in that the footprint of the proposed Small House fell entirely within the ‘VE’ of Kai Leng Village and there was insufficient land within the “V” zone to meet the demand for Small House at the time of consideration. The planning permission lapsed on 13.12.2021. Compared with the previous application, major planning parameters and layout of the proposed Small House remain unchanged.
- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1 and A-2a**.

## **6. Similar Applications**

- 6.1 There have been 116 similar applications involving 84 sites for Small House development within the same “AGR” zone in the vicinity of the Site 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 December 2022 on similar considerations for approval of the previous application as mentioned in paragraph 5.1 above.
- 6.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

## **7. The Site and Its Surrounding Areas (Plans A-1, A-2a, and photos on Plans A-3 and A-4)**

- 7.1 The Site is:
- (a) vacant and paved;
  - (b) located entirely within the ‘VE’ of Kai Leng Village; and
  - (c) not accessible by vehicles.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, vegetated areas, farmlands and tree clusters. To the north and northeast is the village proper of Kai Leng Village. Some trees of common species are found near the northwestern and southwestern boundary of the Site.

## **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 application has been assessed against the assessment criteria at **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?  - Footprint of the proposed Small House  - The Site		100%  100%	The Site and footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	100%  100%		The Site and footprint of the proposed Small House 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)?		✓	<b><u>Land Required</u></b> - Land required to meet Small House demand in Kai Leng Village: about 8.65 ha (equivalent to 346 Small House sites). The outstanding Small House applications are 67 <sup>2</sup> while the 10-year Small House demand forecast is 279.
	Sufficient land in “V” zone to meet outstanding Small House applications?		✓	<b><u>Land Available</u></b> - Land available to meet Small House demand within the “V” zone of concerned village: about 0.68 ha (equivalent to about 27 Small House sites) ( <b>Plan A-2b</b> ).

<sup>2</sup> Among the 67 outstanding Small House applications, 9 fall within “V” zone and 58 straddle or fall outside the “V” zone. For cases straddling or falling outside of “V” zone, 53 of them are the subject of approved planning application(s).

	<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 application as agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water sources are also available. The Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The surrounding areas are predominantly rural in character comprising village houses, vegetated areas, farmlands and tree clusters.
6.	Within water gathering grounds?		✓	
7.	Sewerage impact?		✓	Director of Environmental Protection (DEP) advises that in view of small scale of the proposed development, the application alone is unlikely to cause major pollution.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	Director of Fire Services (D of FS) has no objection to the application. The applicant is reminded to observe the “New Territories Exempted Houses – A Guide to Fire Safety Requirements” published by LandsD.
10.	Traffic impact?	✓		Commissioner for Transport (C for T) advises that Small House development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
				for similar applications in the future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, the application only involving development of one Small House can be tolerated on traffic grounds.
11.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that an approval condition requiring the submission and implementation of drainage proposal is required.
12.	Landscape impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed use is not anticipated.
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of Sheung Shui District Rural Committee, the Indigenous Inhabitant Representative and the Resident Representative of concerned village(s) have no comment on the application.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and recommended advisory clauses are provided at **Appendices V and VI** respectively.

- (a) DLO/N, LandsD;
- (b) DAFC;
- (c) DEP;
- (d) D of FS;
- (e) C for T;

- (f) CE/MN, DSD;
- (g) CTP/UD&L, PlanD; and
- (h) DO(N), HAD.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (d) Project Manager (North), Civil Engineering and Development Department.

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

During the statutory public inspection period, two public comments were received from individuals for the application. One commenter indicates no comment on the application. Another one objects to the application for reasons that the previous planning permission has already lapsed; and the proposed Small House development will lead to the further extension of the village into the “AGR” zone.

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

11.1 The application is for a proposed Small House development on the Site which falls within an area zoned “AGR” on the OZP. The proposed development is 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 application from agricultural perspective, as the Site possesses potential for agricultural rehabilitation.

11.2 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Kai Leng Village. According to DLO/N of LandsD’s records, the total number of outstanding Small House applications for Kai Leng Village is 67 while the 10-year Small House demand forecast is 279. Based on the latest estimate by PlanD, about 0.68 ha of land (or equivalent to about 27 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 67 outstanding Small House applications. As such, the application generally complies with the Interim Criteria.

11.3 The Site is currently vacant and paved with some trees of common species located to the immediate northwest and southwest. The village proper of Kai Leng is about 25m to the north and some pieces of vacant land with planning approvals for Small House developments and Small House grant applications being processed by DLO/N of LandsD are found at the immediate surrounding of the Site. The proposed Small House is not incompatible with the

surrounding areas comprising village houses, vegetated areas, farmlands and tree clusters. CTP/UD&L of PlanD has no objection to the application, as significant adverse landscape impact on the surrounding areas arising from the proposed development is not anticipated. C for T considers that the application involving only one Small House could be tolerated. Other concerned government departments including DEP, CE/MN of DSD and D of FS have no objection to or no adverse comment on the application.

- 11.4 The Site is the subject of a previously approved application as set out in paragraph 5.1 above. Compared with the previous application, the major planning parameters and layouts of the proposed Small House under the current application remain the same. Furthermore, DLO/N of LandsD advises that the Small House grant application at the Site is under processing. In view of the above, sympathetic consideration may be given to the current application.
- 11.5 There are 116 approved similar applications for Small House development within the same “AGR” zone in the vicinity of the Site. The circumstances of the current application are largely the same as these similar applications.
- 11.6 Regarding the objecting public comment as detailed in paragraph 10 above, comments of government departments and the 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 application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 3.3.2027, 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 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 VI**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference:
  - the proposed development is not in line with the planning intention of the “Agriculture” 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 application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form received on 11.1.2023
<b>Appendix Ia</b>	SI received on 16.1.2023
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous application
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Detailed comments from relevant government departments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Appendix VII</b>	Public comments
<b>Drawing A-1</b>	Proposed layout plan
<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  
FEBRUARY 2023**