

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/177

- Applicant** : Mr. LIU Ho Yin Benjamin represented by Mr. PANG Hing Yeun
- Site** : Lot 1544 S.A in D.D. 91, Kai Leng, Sheung Shui, New Territories
- Site Area** : About 165.1m²
- Lease** : 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 is an indigenous villager of Sheung Shui, Sheung Shui Heung¹, 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 ² |
| Number of Storeys | : | 3 |
| Building Height | : | 8.23m |
| Roofed Over Area | : | 65.03m ² |
- 1.3 According to the applicant, the Site is accessible via a local track. 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/58) 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 27.6.2014. Details of the previous application are set out in paragraph 5.1 below.

¹ District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the applicant’s eligibility of Small House grant has been ascertained.

- 1.5 In support of the application, the applicant has submitted the Application Form with attachments on 21.2.2023 (**Appendix I**)

2. Justifications from the Applicant

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

- (a) the applicant is an indigenous villager who is entitled to build a Small House under the prevailing Small House Policy;
- (b) the Site falls within the village ‘environs’ (‘VE’) of Kai Leng Village;
- (c) the Site is the subject of a previous planning approval for Small House development and the Small House grant application is still under processing by LandsD;
- (d) there are similar approved planning applications in the surrounding areas; and
- (e) the applicant will observe comments of government departments to ensure that there will be no adverse environmental impact.

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/58) for the same use submitted by the same applicant of the current application which was approved by the Committee on 27.6.2014 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 27.6.2022. 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 125 similar applications involving 91 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 March 2023 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) partly paved and covered with self-seeded vegetation;
 - (b) located entirely within the ‘VE’ of Kai Leng Village; and
 - (c) accessible via a local track.
- 7.2 The surrounding areas are predominantly rural in character comprising tree clusters, vegetated areas, farmlands, village houses, temporary structures and vehicle parking spaces. About 90m to the north is the village proper of Kai Leng Village.

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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the proposed Small House		100%	The Site and footprint of the proposed Small House fall entirely within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- The Site		100%	
2.	Within 'VE'?			The Site and footprint of the proposed Small House fall entirely within the 'VE' of Kai Leng Village.
	- Footprint of the proposed Small House	100%		
	- The Site	100%		
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 8.65 ha (equivalent to 346 Small House sites). The outstanding Small House applications are 67 ² 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 concerned village: about 0.68 ha (equivalent to about 27 Small House sites) (Plan A-2b).
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 tree clusters, vegetated areas, farmlands, village houses,

² 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 applications.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				temporary structures and vehicle parking spaces.
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 for similar applications in future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, the application only involving development of one Small House could 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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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 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. One commenter indicates no comment on the application. Another one objects to the application for reasons that there is no public sewerage system available in the vicinity; and the use of septic tank is not appropriate for the Site.

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. The application generally complies with the Interim Criteria.

11.3 The Site is partly paved and covered with self-seeded vegetation. The village proper of Kai Leng is about 90m 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 tree clusters, vegetated areas, farmlands, village houses, temporary structures and vehicle parking spaces. 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 layout 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 at an advance stage. In view of the above, sympathetic consideration may be given to the current application.

- 11.5 There are 125 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 21.4.2027, 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

Appendix I	Application Form received on 21.2.2023
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant government departments
Appendix VI	Recommended advisory clauses
Appendix VII	Public comments
Drawing A-1	Proposed layout plan
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 photos

**PLANNING DEPARTMENT
APRIL 2023**