

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/180

- Applicant** : Mr. LIU Wai Cheung represented by T. H. & Associates Limited
- Site** : Lot 1574 S.B ss.2 in D.D. 91, Kai Leng, Sheung Shui, New Territories
- Site Area** : About 152.1m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
- Zonings** : “Agriculture” (“AGR”) (about 86%) and
“Village Type Development” (“V”) (about 14%)
- 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 Wai¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) falling within an area largely zoned “AGR” (about 131.2m² or 86%) with a small portion zoned “V” (about 20.9m² or 14%) on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted within “V” zone while such use 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 uncovered area will be for garden use. The layout of the proposed Small House and location of the proposed septic tank proposed by the applicant are shown in **Drawing A-1**.

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

- 1.4 The Site is the subject of a previous application (No. A/NE-PK/67) 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 28.11.2014. Details of the previous application are set out in paragraph 5.1 below.
- 1.5 In support of the application, the applicant has submitted the Application Form with attachments received on 20.3.2023 (**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 wishes to build a Small House;
- (b) the Site falls entirely within the village ‘environs’ (‘VE’) of Kai Leng Village and partly falls within the “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 that is completely 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 no tree within the Site. The Site is not accessible by vehicles, therefore 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; and there are similar applications within the ‘VE’ of Kai Leng Village approved by the Board. Sympathetic consideration should be given.

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/67) for the same use submitted by the same applicant of the current application which was approved by the Committee on 28.11.2014 mainly on consideration that the

proposed development was in line with the Interim Criteria in that more than 50% of the footprint of proposed Small House fell 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. Subsequently, the planning permission lapsed on 28.11.2022. Compared with the previous application, major planning parameters and footprint 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**.
- 5.3 Application No. A/NE-PK/184 for temporary private vehicle park for a period of three years within the "V" zone partly overlapped with the Site (about 16m²). This application will be considered at the same meeting.

6. Similar Applications

- 6.1 There have been 127 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 May 2023 on similar considerations for the approved previous application as mentioned in paragraph 5.1 above.
- 6.3 There are six other applications (No. A/NE-PK/181 to 183 and 185 to 187) for Small House developments, which will be considered by the Committee at the same meeting with the current application.
- 6.4 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) hard paved;
 - (b) located entirely within the 'VE' of Kai Leng Village; and
 - (c) accessible by vehicles via a local track.
- 7.2 The surrounding areas are predominantly rural in character comprising tree clusters, vegetated areas, farmlands, and village houses. About 15m 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 - The Site	- 14%	100% 86%	- The footprint of proposed Small House falls entirely within the “AGR” zone - The remaining portion of the Site falls within “AGR” zone
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%		The Site and footprint of 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)?		✓	<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-

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 application(s).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?		✓	<p>year Small House demand forecast is 279.</p> <p><u>Land Available</u></p> <p>- 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).</p>
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 and village houses.
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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 the 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 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 has 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 indicating no comment on the application.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House development on the Site which falls within an area largely zoned “AGR” (about 131.2m² or 86%) with a small portion zoned “V” (about 20.9m² or 14%) on the OZP. Although the proposed Small House is always permitted within the “V” zone, it 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 hard paved. The village proper of Kai Leng is about 15m 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 and village houses. 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. CE/MN of DSD recommends an approval condition requiring the submission and implementation of drainage proposal. Other concerned government departments including DEP 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 footprint 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 still under processing. In view of the above, sympathetic consideration may be given to the current application.
- 11.5 There are 127 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.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, 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 19.5.2027, 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 20.3.2023
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 photo

**PLANNING DEPARTMENT
MAY 2023**