

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-PK/185 to 187

<u>Applicants</u>	: Mr. LIU Chung Hong Mr. LIU Wing Kong Mr. LIU Chung Hai all represented by T. H. & Associates Limited	(Application No. A/NE-PK/185) (Application No. A/NE-PK/186) (Application No. A/NE-PK/187)
<u>Sites</u>	: Lot 1575 S.A Lot 1589 RP Lots 1590 S.A and 1591 S.A all in D.D. 91, Kai Leng, Sheung Shui, New Territories	(Application No. A/NE-PK/185) (Application No. A/NE-PK/186) (Application No. A/NE-PK/187)
<u>Site Areas</u>	: 161.4m ² (about) 149.4m ² (about) 173.7m ² (about)	(Application No. A/NE-PK/185) (Application No. A/NE-PK/186) (Application No. A/NE-PK/187)
<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) on each of the application sites	

1. The Proposals

- 1.1 The applicants of Applications No. A/NE-PK/185 and 187 who are indigenous villagers of Sheung Shui, Sheung Shui Heung and the applicant of Application No. A/NE-PK/186 who claims himself to be an indigenous villager of the same village¹ seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) 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 District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the eligibility of Small House grant of applicants of Applications No. A/NE-PK/185 and 187 have been ascertained, while that of Application No. A/NE-PK/186 has yet to be ascertained.

1.2 Details of each of the proposed 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

1.3 The layouts of the proposed Small Houses and locations of proposed septic tanks are shown in **Drawings A-1 to A-3**.

1.4 Each of the Sites is the subject of a previously approved application (No. A/NE-PK/74, 70 and 69 respectively). They were submitted by the same applicants of the current applications for the same use which were approved by the Rural and New Town Planning Committee (the Committee) on 16.1.2015 and 6.2.2015 respectively. Details of these previous applications are set out in paragraph 5.1 below.

1.5 In support of the applications, the applicants have submitted the following documents:

(a) Application Forms with attachments received on **(Appendices Ia to Ic)** 30.3.2023

(b) Supplementary Information (SI) received on **(Appendix Id)** 4.4.2023

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in the Application Forms at **Appendices Ia to Ic**, as summarized below:

- (a) the applicants are indigenous villagers who wish to build a Small House;
- (b) the Sites fall entirely within the village 'environs' ('VE') of Kai Leng Village and are about 45 to 48m away 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 applicants to purchase land that is completely within the "V" zone;
- (c) the proposed developments are considered compatible with the rural environment. There are no ditches or streamcourses within 30m from the Sites and the proposed developments will not involve any tree felling. The proposed developments will not cause any traffic impact on the surrounding areas; and
- (d) each of the Sites is the subject of a previously approved application. Also, there are similar applications within the 'VE' of Kai Leng Village approved by the Board.

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

The applicants are the sole “current land owners” of the Sites. 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 The Sites of Applications No. A/NE-PK/185, 186 and 187 are the subject of previous approved Applications No. A/NE-PK/74, 70 and 69 respectively for the same use submitted by the same applicants of the current applications which were approved by the Committee on 16.1.2015 and 6.2.2015 mainly on consideration that the proposed developments were in line with the Interim Criteria in that more than 50% of the footprint of the 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 permissions lapsed on 16.1.2023 and 6.2.2023. Compared with the previous applications, major planning parameters and layout of the proposed Small Houses remain the same except for the locations of septic tanks.

5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

6.1 There have been 125 similar applications involving 89 sites for Small House development 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 2023 on similar considerations for approval of the previous applications as mentioned in paragraph 5.1 above.

6.3 There are four other applications for Small House development (No. A/NE-PK/180, 181, 182 and 183), which will be considered by the Committee at the same meeting with the current applications.

6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

7.1 The Sites are:

- (a) partly paved and partly covered with self-seeded vegetation; and
- (b) located entirely within the 'VE' of Kai Leng Village.

7.2 The surrounding areas are predominantly rural in character comprising tree clusters, vegetated areas, farmlands and village houses. About 30m to 55m 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 applications have 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? - Footprints of the proposed Small Houses - The Sites	- -	100% 100%	- The Sites and footprints of the proposed Small Houses fall entirely within the "AGR" zone
2.	Within 'VE'? - Footprints of the proposed Small Houses - The Sites	100% 100%	- -	- The Sites and footprints of the proposed Small Houses fall entirely within the 'VE' of Kai Leng Village.

	<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 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 applications as agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water sources are also available. The Sites possess 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 developments, the applications alone are unlikely to cause major pollution.

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>
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 applications. The applicants are 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 developments are not expected to be significant, such type of developments 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 applications only involving development of one Small House at each of the Sites 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 applications from landscape planning perspective as significant adverse impact on the landscape character and existing

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				landscape resources within the Sites 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 applications; and the Indigenous Inhabitant Representative and the Resident Representative of concerned village support the applications.

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;
- (h) Chief Engineer/Construction, Water Supplies Department;
- (i) Director of Electrical and Mechanical Services; and
- (j) 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;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (c) 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 each of the applications. One individual indicates no comment on all applications. The other individual objects to all applications for reasons that there are already too many village developments in the “AGR” zone; the Small House Policy

may have been abused; and the use of septic tanks is not appropriate.

11. Planning Considerations and Assessments

- 11.1 The applications are for a proposed Small House development on each of the Sites which fall within an area zoned “AGR” on the OZP. The proposed 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 perspective, as the Sites possess potential for agricultural rehabilitation.
- 11.2 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall 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 applications generally comply with the Interim Criteria.
- 11.3 The Sites are partly paved and partly covered with self-seeded vegetation. The village proper of Kai Leng is about 30m to 55m 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 Sites. The proposed Small Houses are 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 applications, as significant adverse landscape impact on the surrounding areas arising from the proposed developments is not anticipated. C for T considers that the applications involving only one Small House at each of the Sites 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 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, the major planning parameters and footprint of the proposed Small Houses under current applications remain the same except the locations of septic tanks. Furthermore, DLO/N of LandsD advises that the Small House grant applications at the Sites have been approved or is under processing. In view of the above, sympathetic consideration may be given to the current applications.
- 11.5 There are 125 approved similar applications for Small House development 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 objecting public comments 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 taking into account the public comments mentioned in paragraph 10, Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 19.5.2027, 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 VI**.

- 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 "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 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) 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 of Application No. A/NE-PK/185 received on 30.3.2023
Appendix Ib	Application Form of Application No. A/NE-PK/186 received on 30.3.2023
Appendix Ic	Application Form of Application No. A/NE-PK/187 received on 30.3.2023
Appendix Id	SI received on 4.4.2023
Appendix II	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	Recommended advisory clauses
Appendix VII	Public comments
Drawing A-1	Proposed layout plan of Application No. A/NE-PK/185
Drawing A-2	Proposed layout plan of Application No. A/NE-PK/186
Drawing A-3	Proposed layout plan of Application No. A/NE-PK/187
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**