

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

**APPLICATIONS NO. A/NE-PK/188 and 189**

<b><u>Applicants</u></b>	: Mr. LIU Tim Fook Mr. FUNG Yu Kai both represented by T.H. & Associates Limited	(Application No. A/NE-PK/188) (Application No. A/NE-PK/189)
<b><u>Sites</u></b>	: Lot 1575 S.C Lot 1575 S.D both in D.D. 91, Kai Leng, Sheung Shui, New Territories	(Application No. A/NE-PK/188) (Application No. A/NE-PK/189)
<b><u>Site Areas</u></b>	: About 130.3m <sup>2</sup> About 153.5m <sup>2</sup>	(Application No. A/NE-PK/188) (Application No. A/NE-PK/189)
<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) on each of the application sites	

**1. The Proposals**

1.1 The applicants, who are indigenous villagers of Sheung Shui, Sheung Shui Heung (Application No. A/NE-PK/188) and Liu Pok, Sheung Shui Heung (Application No. A/NE-PK/189) respectively<sup>1</sup>, seek planning permission to build a 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)’ in the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the proposed 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>

---

<sup>1</sup> District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the applicants’ eligibility of Small House grant is ascertained.

- 1.3 According to the applicants, the uncovered area of each of the Sites is proposed for garden use. The layouts of the proposed Small Houses and locations of the proposed septic tanks are shown in **Drawings A-1** and **A-2**.
- 1.4 Each of the Sites is the subject of a previously approved application (No. A/NE-PK/71 and 72 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 6.2.2015. 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 Application Forms with attachments received on 29.5.2023 (**Appendices Ia** and **Ib**).

## **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** and **Ib**, as summarized below:

- (a) the applicants are indigenous villagers who wish to build Small Houses;
- (b) the Sites fall entirely within the village ‘environs’ (‘VE’) of Kai Leng Village and are about 25m to 35m 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. There are also 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, which was revised on 7.9.2007, is at **Appendix II**.

## 5. **Previous Applications**

- 5.1 The Sites of Applications No. A/NE-PK/188 and 189 are the subject of previously approved Applications No. A/NE-PK/71 and 72 respectively as mentioned in paragraph 1.4 above. They were approved by the Committee on 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. The planning permissions lapsed on 6.2.2023. Compared with the previous applications, major planning parameters and footprints of the proposed Small Houses remain the same.
- 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 133 similar applications involving 90 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 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) vacant with some overgrown grass; 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 the northeast 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.
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 8.63ha (equivalent to 345 Small House sites). The number of outstanding Small House applications is 66 <sup>2</sup> 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 0.68ha (equivalent to about 27 Small House sites) ( <b>Plan A-2b</b> ).
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

<sup>2</sup> Among the 66 outstanding Small House applications, 9 fall within “V” zone and 57 straddle or fall outside the “V” zone. For cases straddling or falling outside of “V” zone, 52 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>
				access and water sources are also available. The Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The Sites are located in an area of rural inland plains landscape 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.
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.
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 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 applications only involving

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				development of one Small House at each of the Sites 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 applications from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources within the Sites arising from the proposed use is not anticipated.
13.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical comments on the applications.
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 comments on 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 **VII** respectively.

- (a) DLO/N, LandsD;
- (b) DAFC;

- (c) C for T;
- (d) DEP;
- (e) CE/MN, DSD;
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (g) CTP/UD&L, PlanD;
- (h) D of FS;
- (i) H(GEO), CEDD; 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 (CHE/NTE, HyD); and
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

## **10. Public Comments Received During Statutory Publication Period**

On 6.6.2023, the applications were published for public inspection. During the statutory public inspection period, two public comments (**Appendix VI**) were received from individuals for each of the applications. One individual indicates no comment on both applications. The other individual objects to both applications for reasons that there are already too many village developments outside the “V” zone of Kai Leng Village where there is no sewerage system available; and the use of septic tanks is not appropriate.

## **11. Planning Considerations and Assessment**

11.1 The applications are for a proposed Small House development on each of the two 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 66 while the 10-year Small House demand forecast is 279. Based on the latest estimate by PlanD, about 0.68ha 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 66 outstanding Small House applications. As such, the applications generally comply with the Interim Criteria.

- 11.3 The Sites are vacant with some overgrown grass. The village proper of Kai Leng is about 30m to the northeast 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 impact on the landscape character and existing landscape resources within the Sites 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 footprints of the proposed Small Houses under current applications remain the same. Furthermore, DLO/N of LandsD advises that the Small House Grant applications at the Sites have been approved but the basic terms offer are yet to be issued. In view of the above, sympathetic consideration may be given to the current applications.
- 11.5 There are 133 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 assessment above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessment 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 28.7.2027, 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 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 There is no strong reason to recommend rejection of the application.
- 12.4 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**

<b>Appendix Ia</b>	Application Form of Application No. A/NE-PK/188 received on 29.5.2023
<b>Appendix Ib</b>	Application Form of Application No. A/NE-PK/189 received on 29.5.2023
<b>Appendix II</b>	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 Layout Plan of Application No. A/NE-PK/188
<b>Drawing A-2</b>	Proposed Layout Plan of Application No. A/NE-PK/189
<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  
JULY 2023**