

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-PK/194

- Applicant** : Mr. LIU Shu Shun represented by T.H. & Associates Limited
- Site** : Lots 1545 S.B and 1546 S.B in D.D. 91, Kai Leng, Sheung Shui, New Territories
- Site Area** : About 105.9m²
- 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 claims himself to be an indigenous villager of Sheung Shui Wai, Sheung Shui Heung¹, seeks planning permission to build a 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)’ in the “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 of the Site is proposed for garden use. The layout of the proposed Small House and location of the proposed septic tank are shown in **Drawing A-1**.
- 1.4 The Site is the subject of a previously approved application (No. A/NE-PK/75) submitted by the same applicant for the same use, which was approved by the Rural and New Town Planning Committee (the Committee) on 8.1.2016. 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 yet to be ascertained.

- 1.5 In support of the application, the applicant has submitted the Application Form with attachments received on 21.12.2023 (**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) it is impossible to purchase land in “Village Type Development” (“V”) in Kai Leng for Small House development;
- (c) there is no tree felling arising from the proposed development. No ditches or stream courses are found within 30m of the Site;
- (d) the proposed development is considered compatible with the rural environment. The proposed development would not incur adverse traffic, landscape and visual impacts; and
- (e) the application is the subject of a previously approved application No. A/NE-PK/75. There are a couple of similar applications approved in Kai Leng.

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, which was revised on 7.9.2007, is at **Appendix II**.

5. Previous Application

- 5.1 The Site is the subject of the previously approved Application No. A/NE-PK/75 submitted by the same applicant as mentioned in paragraph 1.4 above. It was approved by the Committee on 8.1.2016 mainly on consideration that the proposed development was in line with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell within the village ‘environs’ (‘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 9.1.2024. Compared with the previous application, the major planning parameters and the 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**.

6. Similar Applications

- 6.1 There have been 136 similar applications involving 92 sites for Small House developments 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 by the Committee between 2001 and 2023 on similar consideration as the approved previous application as set out 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 Their Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:
- (a) vacant and covered with overgrown; and
 - (b) located entirely within the ‘VE’ of Kai Leng Village.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, farmland and clusters of tree groups. About 25m 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 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.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - Footprint of the proposed Small House - The Site 	<p>-</p> <p>-</p>	<p>100%</p> <p>100%</p>	<ul style="list-style-type: none"> - The Site and footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprint of the proposed Small House - The Site 	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> - The Site and footprint of the proposed Small House fall entirely within the ‘VE’ of Kai Leng Village.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p> <p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>		<p>✓</p> <p>✓</p>	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in Kai Leng Village: about 8.73ha (equivalent to 349 Small House sites). The number of outstanding Small House applications is 70² while the 10-year Small House demand forecast is 279. <p><u>Land Available</u></p> <ul style="list-style-type: none"> - Land available to meet Small House demand within the “V” zone of concerned village: about 0.68ha (equivalent to about 27 Small House sites) (Plan A-2b).
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		<p>✓</p>	<ul style="list-style-type: none"> - 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 available. The Site possesses potential for agricultural rehabilitation.

² Among the 70 outstanding Small House applications, 13 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).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/development?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that the Site is located in an area of rural inland plains landscape character comprising village houses, farmland 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.
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				grounds.
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.
12.	Landscape impact?		✓	- 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?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical comments on the application.
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 (IIR), the Resident Representative (RR) of Kai Leng and five North District Councilors (NDCs) indicated no comment on the application while 18 NDCs did not reply.

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) 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 adverse comment on the application:

- (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 Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual indicating no comment on the application (**Appendix VII**) was received.

11. Planning Considerations and Assessment

- 11.1 The application is for a proposed Small House development at the Site 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**), the proposed Small House footprint falls entirely within the ‘VE’ of Kai Leng Village. According to DLO/N’s records, the total number of outstanding Small House applications for Kai Leng Village is 70 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 outstanding Small House applications. As such, the application generally complies with the Interim Criteria.
- 11.3 The Site is vacant and covered with overgrown. The village proper of Kai Leng is about 25m 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 in the immediate surroundings. The proposed Small House is not incompatible with the surrounding areas comprising village houses, farmland and tree clusters. CTP/UD&L of PlanD has no objection to the application as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed developments is not anticipated. C for T considers that the

application involving only one Small House could be tolerated. Other concerned government departments including CE/MN of DSD, 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 submitted by the same applicant for the same use as set out in paragraph 5.1 above. Compared with the previous application, the major planning parameter and footprint of the proposed Small House under current application remain unchanged.
- 11.5 There are 136 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 ones.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and taking into account the public comment mentioned in paragraph 10, 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 16.2.2028, 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 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), if any, 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 with attachments received on 21.12.2023
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 Comment
Drawing A-1	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
FEBRUARY 2024**