

RNTPC Paper No. A/NE-PK/199 and 200
For Consideration by the
Rural and New Town Planning
Committee on 6.9.2024

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

APPLICATIONS NO. A/NE-PK/199 and 200

<u>Applicants</u>	: Mr. LIU Tsz Cheung Mr. LIU Ka Chun both represented by T.H. & Associates Limited	(Application No. A/NE-PK/199) (Application No. A/NE-PK/200)
<u>Sites</u>	: Lot 1642 S.A Lot 1642 S.B both in D.D. 91, Kai Leng, Sheung Shui, New Territories	(Application No. A/NE-PK/199) (Application No. A/NE-PK/200)
<u>Site Areas</u>	: About 135.3m ² About 151m ²	(Application No. A/NE-PK/199) (Application No. A/NE-PK/200)
<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 Both applicants, who are indigenous villagers of Sheung Shui, Sheung Shui Heung¹, 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 ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

¹ District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the applicants’ eligibility of Small House grant is yet to be 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/82 and 83 respectively) (**Plans A-1 and A-2a**), which were submitted by the same applicants of the current applications for the same use. Both were approved by the Rural and New Town Planning Committee (the Committee) of the Board on 15.7.2016. 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 15.7.2024 (**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 35m (No. A/NE-PK/199) and about 40m (No. A/NE-PK/200) 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. 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 which has been pending approval by District Lands Officer/North, Lands Department (DLO/N, LandsD). There are also similar applications within the “AGR” 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 respective 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 involve four previous applications (No. A/NE-PK/82, 83, 114 and 128). Two previously approved applications (No. A/NE-PK/82 and 83) (**Plans A-1 and A-2a**) submitted by the same applicants for the same use at the same sites respectively were approved by the Committee on 15.7.2016 mainly on consideration that the proposed developments were in line with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within 'VE' of Kai Leng Village and there were insufficient land within the "V" zone to meet the demand for Small House at the time of consideration. The validity of the planning permissions has been extended once to 15.7.2024 (No. A/NE-PK/82-1 and 83-1). However, fresh planning applications are required as the planning permissions cannot be further extended and more time is required by LandsD for processing the Small House grant applications. Compared with the previous applications, the major development parameters and the footprints of the proposed Small Houses remain unchanged.
- 5.2 The remaining two applications No. A/NE-PK/114 and 128 for temporary private car park (private car and light goods vehicle) for a period of three years partly overlap with the Sites (**Plan A-2a**). The applications were rejected by the Committee between 2017 and 2018. Considerations of these two applications are not relevant to the current application which involves a different use.
- 5.3 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 141 similar applications involving 91 sites for Small House developments within the same "AGR" zone in the vicinity of the Sites since the first promulgation of the Interim Criteria on 24.11.2000. All these applications were approved with conditions by the Committee between 2001 and 2024 on similar considerations as stated in paragraph 5.1.
- 6.2 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) covered with self-seeded vegetation and undersized trees of common species and undesirable species; 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 35-40m 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 8.7ha (equivalent to 348 Small House sites). The number of outstanding Small House applications is 69 ² while

² Among the 69 outstanding Small House applications, 12 fall within “V” zone and 57 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>the 10-year Small House demand forecast is 279.</p> <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.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> - 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?	✓		<ul style="list-style-type: none"> - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that the Sites are located in an area of rural inland plains landscape character comprising village houses, farmland and clusters of tree groups.
6.	Within water gathering grounds?		✓	
7.	Sewerage impact?		✓	<ul style="list-style-type: none"> - 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		✓	<ul style="list-style-type: none"> - Director of Fire Services (D of

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	fire services installations and emergency vehicular access (EVA)?			FS) has no in-principle 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 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) has no objection to the applications.
12.	Landscape impact?		✓	- 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),

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				HAD) advises that he has issued consultation letters to the Chairman of Sheung Shui District Rural Committee, Indigenous Inhabitant Representative and Resident Representative of Kai Leng Village.

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 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

The applications were published for public inspection. During the statutory public inspection period, two public comments (**Appendix VII**) were received from an individual indicating no comment on the applications.

11. Planning Considerations and Assessment

11.1 The applications are for 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**), the footprints of the proposed Small Houses fall entirely 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 69 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 applications generally comply with the Interim Criteria.
- 11.3 The Sites are covered with self-seeded vegetation and undersized trees of common species and undesirable species. The village proper of Kai Leng is about 35-40m 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 village houses, farmland and clusters of tree groups. 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. Other concerned government departments including CE/MN of DSD, 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 submitted by the same applicant for the same use as set out in paragraph 5.1 above. Although the previous approvals have lapsed, the Small House grant applications at the Sites are being processed by DLO/N of LandsD. Compared with the previous applications, the major development parameters and the footprints of the proposed Small Houses remain unchanged.
- 11.5 There are 141 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.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, 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 6.9.2028, 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 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 with attachments of Application No. A/NE-PK/199 received on 15.7.2024
Appendix Ib	Application Form with attachments of Application No. A/NE-PK/200 received on 15.7.2024
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/199
Drawing A-2	Proposed Layout Plan of Application No. A/NE-PK/200
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