

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

**APPLICATION NO. A/NE-PK/212**

- Applicant** : Mr. FUNG Wai Chio represented by T.H. & Associates Limited
- Site** : Lot 1594 S.F in D.D. 91, Kai Leng, Sheung Shui, New Territories
- Site Area** : About 138.18m<sup>2</sup>
- 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 as an indigenous villager of Liu Pok, Sheung Shui Heung<sup>1</sup>, seeks planning permission to build a NTEH (Small House) at 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). The Site is currently occupied by agricultural use.
- 1.2 Details of the proposed Small House 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>  |
- 1.3 The footprint of the proposed Small House and septic tank falls entirely within the Site. The layout of the proposed Small House and the 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/99) (**Plans A-1 and A-2**) submitted by the same applicant as the current application for the same use, which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 13.1.2017. Details of the previous application are set out in paragraph 5.1 below.

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

- 1.5 In support of the application, the applicant has submitted an Application Form with attachments received on 24.12.2024 (**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 summarised below:

- (a) the applicant is an indigenous villager of Liu Pok, Sheung Shui Heung who wishes to build a Small House;
- (b) the Site falls entirely within the village ‘environs’ (‘VE’) of Kai Leng Village<sup>2</sup> and is in proximity to the “village type development” (“V”) zone on the OZP. Land available for Small House development within the “V” zones of Kai Leng is very limited and the applicant had to purchase land in ‘VE’ of Kai Leng;
- (c) no visual and traffic impacts are anticipated, and no tree felling, filling of pond/land or diversion of stream is involved;
- (d) the Site is the subject of a previously approved application No. A/NE-PK/99 submitted by the same applicant. The Small House grant application is under processing by DLO/N, LandsD; and
- (e) several similar applications in the vicinity for Small House development were approved by the Board.

## **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 a previous Application No. A/NE-PK/99 submitted by the same applicant for the same use, which was approved by the Committee on 13.1.2017 mainly on considerations 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 ‘VE’ of Kai Leng Village and there was insufficient land within the “V” zones to meet the demand for Small House at the time of

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<sup>2</sup> It should be clarified that about 7.24m<sup>2</sup> or 5.24% of the Site falls outside ‘VE’ (**Plan A-2a**).

consideration. The validity of the planning permission has been extended once to 13.1.2025 under the approved application No. A/NE-PK/99-1. Since LandsD requires more time for processing the Small House grant application, and the planning permission cannot be further extended, a fresh planning application is required. Compared with the previous application, the major development parameters and the footprint of the proposed Small House remain unchanged.

- 5.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

## **6. Similar Applications**

- 6.1 There have been 150 similar applications involving 93 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. All these applications were approved with conditions by the Committee between 2001 and 2025 on similar considerations as stated in paragraph 5.1.
- 6.2 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

## **7. The Site and Its Surrounding Areas (Plans A-1 to A-4)**

- 7.1 The Site is:
- (a) currently occupied by agricultural use; and
  - (b) mainly located 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. To the north of the Site is the village proper of Kai Leng Village.
- 7.3 There is one similar application No. A/NE-PK/211 for proposed house (NTEH – Small House) falling within the same “AGR” zone (**Plan A-2a**), which will be considered at the same meeting.

## **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 had been assessed against the assessment criteria at **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zones?  - Footprint of the proposed Small House  - The Site	-  -	100%  100%	- The Site and footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	100%  94.76%	-  -	- About 94.76% of the Site and 100% of the footprint of the proposed Small House fall within the ‘VE’ of Kai Leng Village.
3.	Sufficient land in “V” zones 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 8.35ha (equivalent to 334 Small House sites). The number of outstanding Small House applications is 55 <sup>3</sup> while the 10-year Small House demand forecast is 279.  <u>Land Available</u> - Land available to meet Small House demand within the “V” zones of concerned village: about 0.66ha (equivalent to about 26 Small House sites) ( <b>Plan A-2b</b> ).
	Sufficient land in “V” zones to meet outstanding Small House application?		✓	
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

<sup>3</sup> Among the 55 outstanding Small House grant applications, 11 fall within “V” zones and 44 straddle or fall outside the “V” zones. For cases straddling or falling outside of “V” zones, 42 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>
				infrastructures such as road access and water sources are also available. The Site possesses potential for agricultural rehabilitation.
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 clusters of tree groups.
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 in-principle objection to the application.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) advises that although additional traffic generated by the proposed development are not significant, the permission of development outside the "V" zones will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				traffic impact has to be reviewed on case-by-case in the future. 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) has no objection to the application.
12.	Landscape impact?		✓	- CTP/UD&L, PlanD has no adverse comment on 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 comment on the application.
14.	Local objections conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), 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 application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (b) Project Manager (North), CEDD (PM(N), CEDD).

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

On 31.12.2024, the application was published for public inspection. During the statutory public inspection period, one public comment (**Appendix VII**) was received from a member of North District Council indicating no comment on the application.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for 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 About 94.76% of the Site and 100% of the footprint of the proposed Small House fall within the ‘VE’ of Kai Leng Village. According to DLO/N, LandsD’s records, the total number of outstanding Small House applications for Kai Leng Village is 55 while the 10-year Small House demand forecast is 279. Based on the latest estimate by PlanD, about 0.66ha of land (or equivalent to about 26 Small House sites) is available within the “V” zones concerned (**Plan A-2b**). In this regard, there is insufficient land within the “V” zones to meet the outstanding Small House applications. As such, the application generally complies with the Interim Criteria (**Appendix II**).
- 11.3 The Site is currently occupied by agricultural use. The Site is located at the south of the village proper of Kai Leng, and some pieces of vacant land with planning approvals for Small House developments and Small House grant applications being processed by DLO/N, LandsD are found in the immediate surroundings of the Site. The proposed Small House is not incompatible with the surrounding areas comprising village houses, farmland and clusters of tree

groups. CTP/UD&L, PlanD has no adverse comment on the application as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed development is not anticipated. C for T considers that the application involving only one Small House could be tolerated on traffic grounds. Other concerned government departments consulted including CE/MN, 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. Although the previous approval has lapsed, the Small House grant application at the Site is still under processing by DLO/N, LandsD. Compared with the previous application, the major development parameters and the footprint of the proposed Small House remain unchanged. In this regard, sympathetic consideration may be given to the application.
- 11.5 There are 150 approved similar applications for Small House development within the same “AGR” zone in the vicinity of the Site. The planning circumstances of the current application are largely similar to those of the approved similar applications. Approval of the current application is in line with the previous Committee’s decisions.
- 11.6 The public comment received has no comment on the application.

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

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment as mentioned in paragraph 10, the 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 14.2.2029, 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 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**

<b>Appendix I</b>	Application Form with Attachments Received on 24.12.2024
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous Application
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Appendix VII</b>	Public Comment
<b>Drawing A-1</b>	Proposed Layout Plan
<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” Zones of Kai Leng Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
FEBRUARY 2025**