

APPLICATIONS FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-KTS/470 and 471

<u>Applicants</u>	:	Mr. LIU Tim Sui Mr. LIU Yun Lo	(Application No. A/NE-KTS/470) (Application No. A/NE-KTS/471)
		Both represented by Access Consulting Limited	
<u>Sites</u>	:	Lot 1428 S.A ss.1 Lot 1428 S.A ss.2	(Application No. A/NE-KTS/470) (Application No. A/NE-KTS/471)
		Both in D.D.100, Tsiu Keng Village, Sheung Shui, New Territories	
<u>Site Areas</u>	:	156.8 m ² (about) 150 m ² (about)	(Application No. A/NE-KTS/470) (Application No. A/NE-KTS/471)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)	
<u>Plan</u>	:	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16	
<u>Zoning</u>	:	“Agriculture” (“AGR”)	
<u>Applications</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)	

1. The Proposals

- 1.1 The applicants, who claim to be indigenous villagers¹ of Sheung Shui Village, seek planning permission to build a house (NTEH - Small House) each on the application sites (the Sites) in Tsiu Keng Village², Sheung Shui. The Sites abut each other and both fall within an area zoned “AGR” on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16 (**Plans A-1 and A-2a**). According to the Notes of the OZP, the proposed ‘Houses (NTEHs)’ in “AGR” zone require planning permission from the Town Planning Board (the Board). The Sites are currently occupied by a temporary domestic structure and a vacant structure (**Plan A-4**).

¹ As advised by the District Lands Officer/North, Lands Department (DLO/N, LandsD), the eligibility of the applicants for Small House concessionary grant has yet to be ascertained.

² Tsiu Keng Village comprises 4 areas in that Tsiu Keng Pang Uk, Tsiu Keng Lo Wai and Tsiu Keng San Wai are covered by one “V” zone and Chan Uk Po is covered by another “V” zone.

1.2 Each of the proposed Small Houses has a covered area of 65.03m², 3 storeys (8.23m) and a total gross floor area of 195.09m². The applicants have indicated that the uncovered area of the Sites will be used as garden. A septic tank is proposed for each house. Layouts of the proposed Small House developments are at **Drawings A-1 and A-2**.

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

- (a) Application Form with plans received on 11.4.2019 (Application No. A/NE-KTS/470) **(Appendix Ia)**
- (b) Application Form with plans received on 11.4.2019 (Application No. A/NE-KTS/471) **(Appendix Ib)**
- (c) Further Information dated 10.5.2019 **(Appendix Ic)**

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of their Application Forms at **Appendices Ia and Ib**. The applicants stated that they are indigenous villagers in the New Territories and they have only one chance to apply for construction of NTEH (Small House).

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

The applicants are the sole “current land owner” of their respective site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The latest set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria), which was promulgated on 7.9.2007, is at **Appendix II**.

5. Background

The Sites are not subject to planning enforcement action.

6. Previous Applications

There is no previous application in respect of the Sites.

7. Similar Applications

7.1 There were 21 similar applications for NTEH (Small House) within/partly within the “AGR” zone in the vicinity of Chan Uk Po since the first promulgation of the Interim Criteria on 24.11.2000. Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

Approved Applications

7.2 14 applications were approved with conditions by the Rural and New Town Planning Committee (the Committee). 13 applications (No. A/NE-KTS/150, 155, 156, 248, 249, 253, 262, 263, 345, 346, 355, 356 and 375) were approved between 2002 and 2014 mainly on consideration that the applications complied with the Interim Criteria in that the entire/majority of the footprints of the proposed Small Houses fell within the Village ‘Environs’ (‘VE’) and that there was not sufficient land within the “V” zone to satisfy the Small House demand. The remaining application No. A/NE-KTS/455 was approved on 18.5.2018 as the site is located at the fringe of the village and surrounded by existing Small Houses and part of the Small House footprint falls within the “V” zone.

Rejected Applications

7.3 7 applications (No. A/NE-KTS/424 to 428, 430 and 431) were rejected by the Committee in 2016 mainly for reasons of being not in line with the planning intention of the “AGR” zone; and land still available within “V” zone of Chan Uk Po, in that it was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services. For A/NE-KTS/431, it also does not comply with the Interim Criteria in that more than 50% of the proposed Small House falls outside both “V” zone and ‘VE’.

8. The Sites and Their Surrounding Areas (Plan A-2a and aerial photo on Plan A-3 and site photos on Plan A-4)

8.1 The Sites are:

- (a) generally flat, currently occupied by a temporary domestic structure and a vacant structure;
- (b) located to the east of the village cluster of Chan Uk Po, Tsui Keng Village and falls entirely within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po); and
- (c) accessible via a footpath to the northwest of the Sites and there is no direct vehicular access. There is a village road, about 30m to the west of the Sites, connecting Tsiu Keng Road.

8.2 The surrounding area is predominantly rural in nature with village houses, active/fallow agricultural land, car parks and open storages with the following characteristics:

- (a) to the northwest are domestic structures;
- (b) to the immediate east are fallow agricultural land. To the further east and north is a watercourse;
- (c) to the immediate south are village houses which were developed with planning permissions granted in 2008 (Applications No. A/NE-KTS/262 and 263). To the further south are car park, open storages, active/fallow agricultural land and vacant land; and
- (d) to the immediate west is fallow agricultural land. To the further west are village houses of Chan Uk Po, Tsiu Keng village.

9. 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.

10. Comments from Relevant Government Departments

10.1 The applications have been assessed against the assessment criteria in **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” zone? - Footprints of the proposed Small Houses - The Sites	- -	100% 100%	- The Sites of the proposed Small Houses and their footprints entirely fall within “AGR” zone.
2.	Within ‘VE’? - Footprints of the proposed Small Houses - The Sites	100% 100%	- -	- DLO/N, LandsD has advised that both Sites fall entirely within the ‘VE’ of Tsiu Keng 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)?		✓	- Land required to meet Small House demand in Tsiu Keng Village: about 6.5 ha (equivalent to about 259 Small House sites). The outstanding Small House applications for Tsiu Keng Village are 39 ³ while the 10-year Small House demand forecast for the village is about 220.
	Sufficient land in “V” zone to meet outstanding Small House applications? (Plans A-2b and A-2c)	✓		- Land available to meet the Small House demand within the two “V” zones of the village concerned: about 2.9 ha (equivalent to about 116 Small House sites).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view against the applications from agricultural point of view as the Sites are currently hard paved and occupied by 2 temporary structures, and the Sites possess low potential for agricultural rehabilitation. It is noted that the Sites are near a watercourse, which is at the upstream of Tam Shui Hang. Should the applications be approved, the applicants should be reminded to implement good site practice so as not to pollute the watercourse nearby.
5.	Compatible with surrounding area/development?	✓		- The Sites are located in an area predominantly rural in nature with village houses, active/fallow agricultural land, car parks and open storages.
6.	Within Water Gathering Grounds (WGGs)?		✓	

³ Among the 39 outstanding Small House applications, 12 of them fall within the “V” zones, and 27 straddle or outside the “V” zones including the 2 subject application sites and 5 sites with valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no specific comment on the applications. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the LandsD.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has reservation on the applications due to setting undesirable precedent resulting in cumulative adverse traffic impact, but considers that the applications each only involving construction of one Small House can be tolerated.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection in principle to the applications and advised that approval condition requiring submission and implementation of drainage proposal be imposed should the applications be approved.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has advised that in view of the small-scale nature of the proposed developments, the applications alone are unlikely to cause major pollution. - Septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage.
12.	Landscaping impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<ul style="list-style-type: none"> - The proposed use is considered not incompatible with the existing landscape setting in proximity. - Based on his site visit conducted on 24.4.2019, the Sites were hard paved with temporary structures erected. Further significant landscape impact arising from the proposed use is not anticipated. - In view that the proposed use is not adjoining any prominent public frontage and would not cause further significant landscape and visual impacts, landscape condition is not recommended should the applications be approved.
13.	Local objections conveyed by District Officer (North) (DO(N))?		✓	<ul style="list-style-type: none"> - The Chairman of the Sheung Shui District Rural Committee (SSDRC), the North District Council (NDC) members of subject constituency, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Tsiu Keng have no comment on the applications.

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Their other detailed comments, if any, are at **Appendix IV**.

- (a) DLO/N, LandsD;
- (b) CE/MN, DSD;
- (c) DEP;
- (d) DAFC;
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C,WSD);
- (f) CTP/UD&L, PlanD;
- (g) D of FS;
- (h) C for T; and
- (i) DO(N), Home Affairs Department.

10.3 The following Government departments have 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(E), CEDD).

11. Public Comments Received During Statutory Publication Period

On 23.4.2019, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 14.5.2019, a total of 7 public comments on the two applications were received. Four comments (**Appendices Va** and **Vd**) from 2 individuals (two on each applications) indicate no comment on the applications. The remaining three comments (**Appendices Ve** and **Vg**) from an individual (submitted one comment each on the two applications) and Designing Hong Kong Limited object to/raise concerns on both applications mainly on the following reasons:

- (a) the planning intention of “AGR” zone is to retain and safeguard good quality agricultural land for agricultural purposes;
- (b) vegetation in the Sites have been cleaned up and concerned about rewarding “destroy first, develop later” and unauthorised use situation if the applications are approved as well as setting undesirable precedent for similar applications resulting in a general degradation of the rural environment of the area;
- (c) similar applications were rejected for reasons of land still available within “V” zones of Tsiu Keng Village, in that it was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services; and
- (d) septic tank is undesirable.

12. Planning Considerations and Assessments

- 12.1 The applications are for NTEHs (Small Houses) within “AGR” zone. The proposed developments are not in line with the planning intention of the “AGR” 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. DAFC has no strong view against the applications from agricultural point of view as the Sites are currently hard paved and occupied by 2 temporary structures, and the Sites possess low potential for agricultural rehabilitation.
- 12.2 The Sites are currently occupied by a temporary domestic structure and a vacant structure. It is located to the east of the village cluster of Chan Uk Po, Tsiu Keng Village. The proposed houses are not incompatible with surrounding environment which is rural in nature with village houses, active/fallow agricultural land, car parks and open storages. DEP advises that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage. It is not

anticipated that the proposed development would have significant adverse environmental and drainage impacts on the surrounding area. While C for T considers that the applications each only involving construction of one Small House could be tolerated, he has concern on cumulative adverse traffic impact caused by future similar developments. Other Government departments consulted, including CTP/UD&L, PlanD and CE/MN, DSD, have no adverse comment on or no objection to the applications.

- 12.3 Regarding the Interim Criteria (**Appendix II**), 100% of the footprints of the proposed Small Houses fall within the 'VE' of Tsiu Keng (Tsiu Keng Chan Uk Po) (**Plan A-1**). According to DLO/N, LandsD, the total number of outstanding Small House applications for Tsiu Keng Village is 39. As provided by the IIR of Tsiu Keng, the 10-year Small House demand forecast for the Village is about 220. Based on the latest estimate by PlanD, about 2.9 ha (or equivalent to about 116 Small House sites) of land is available within the two "V" zones of Tsiu Keng Village (**Plans A-2b and A-2c**). There is sufficient land available within the "V" zones to meet the outstanding Small House applications though it cannot fully meet the 10-year Small House demand. In recent years, the Board has adopted a more cautious approach in considering applications for Small House development. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. For the current applications, as land is available within the "V" zones to meet the outstanding 39 Small House applications, it is considered more appropriate to concentrate the proposed Small House developments within the "V" zones for orderly development pattern, efficient use of land and provision of infrastructures and services.
- 12.4 There are 21 similar applications for proposed Small House development which fell entirely/partly within the same "AGR" zone in the vicinity of Chan Uk Po, Tsiu Keng Village (**Plans A-1 and 2a**). As stated in paragraph 7, 13 applications were approved before adoption of a more cautious approach by the Board in 2015 and another application was approved in 2018. The remaining 7 applications were rejected in 2016 mainly due to not in line with the Interim Criteria in that land still available within "V" zone of Chan Uk Po to meet the outstanding Small House applications.
- 12.5 Of the 7 public comments received, two commenters object to/raise concerns on the applications mainly in the aspects of planning intention, available land in "V" zone, setting undesirable precedent and undesirability of septic tank. In this regard, relevant Government departments' comments and planning assessments as stated in paragraphs 12.1 to 12.3 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local views and public comments mentioned in paragraphs 10.1 and 11, the PlanD does not support the applications for the following reason:

land is still available within the “Village Type Development” (“V”) zones of Tsiu Keng Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zones for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 13.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 31.5.2023, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) 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 VI**.

14. Decision Sought

- 14.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permissions.
- 14.2 Should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 14.3 Alternatively, should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.

15. Attachments

- Appendix Ia** Application Form with plans received on 11.4.2019
(Application No. A/NE-KTS/470)
- Appendix Ib** Application Form with plans received on 11.4.2019
(Application No. A/NE-KTS/471)
- Appendix Ic** Further Information dated 10.5.2019

Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Detailed Comments from Relevant Government Departments
Appendices Va to Vg	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Proposed Layout Plan (Application No. A/NE-KTS/470)
Drawing A-2	Proposed Layout Plan (Application No. A/NE-KTS/471)
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plans A-2b and A-2c	Estimated Amount of Land Available for Small House Development within the “V” Zones
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2019**