

APPLICATIONS FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-KTS/481 to 483

Applicants : Mr. LIU Tsz Wai (Application No. A/NE-KTS/481)
Mr. LIU Tsz Wit (Application No. A/NE-KTS/482)
Mr. LIU Tez Foun (Application No. A/NE-KTS/483)

All represented by Access Consulting Limited

Sites : Lot 1228 S.B (Application No. A/NE-KTS/481)
Lot 1235 S.A (Application No. A/NE-KTS/482)
Lot 1228 S.A (Application No. A/NE-KTS/483)

All in D.D.100, Chan Uk Po, Tsiu Keng Village, Sheung Shui, New Territories

Site Areas : 157.9m² (Application No. A/NE-KTS/481)
207.3m² (Application No. A/NE-KTS/482)
165m² (Application No. A/NE-KTS/483)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16

Zoning : “Agriculture” (“AGR”)

Application : Each application for a 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

¹ As advised by the District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant of application No. A/NE-KTS/482 is eligible for Small House concessionary grant. The indigenous villager status of the other two applicants has been certified by their Indigenous Inhabitant Representative. They are considered eligible for Small House concessionary grant subject to final approval by his office.

planning permission to build a house (NTEH - Small House) each on the application sites (the Sites) in Chan Uk Po, Tsiu Keng Village², Sheung Shui. The Sites 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 vacant and mainly covered by wild grass (**Plan A-4**).

- 1.2 The Sites were granted with planning permissions in 2014 under applications No. A/NE-KTS/355, 356 and 375 submitted by the same applicants for proposed Houses (NTEH – Small House). All the planning permissions lapsed in 2018.
- 1.3 Each of the proposed Small Houses has a covered area of 65.03m², 3 storeys (8.23m) and 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 to A-3**.
- 1.4 In support of the applications, the applicants have submitted the following documents:
 - (a) Application Form with plans and a letter received on 4.11.2019 (**Appendix Ia**) (Application No. A/NE-KTS/481)
 - (b) Application Form with plans and a letter received on 4.11.2019 (**Appendix Ib**) (Application No. A/NE-KTS/482)
 - (c) Application Form with plans and a letter received on 4.11.2019 (**Appendix Ic**) (Application No. A/NE-KTS/483)

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 and the letters at **Appendices Ia to Ic**. 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). Since they forgot to submit renewal application before the previous planning permissions lapsed, the current applications are therefore submitted.

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.

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

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**

6.1 The three Sites are the subject of three previous applications (one for each Site) for proposed Houses (NTEH – Small House) submitted by the same applicants, which were approved by the Committee in 2014. The applications were approved mainly on the grounds of being not incompatible with the surrounding land uses, having similar approved applications, and being complied with the Interim Criteria in that the Small House footprint fell within the ‘Village Environ’ (‘VE’) of Tsiu Keng Village and there was insufficient land in “V” zone to meet the Small House demand, and having no significant adverse traffic, drainage, environmental and landscape impacts to the surrounding areas. Two planning permissions (applications No. A/NE-KTS/355 and 356) lapsed on 4.1.2018 while the remaining one (application No. A/NE-KTS/375) lapsed on 1.11.2018.

6.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

7. **Similar Applications**

7.1 There were 20 similar applications for NTEH (Small House) within/partly within the same “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 IV** and their locations are shown on **Plan A-1**.

Approved Applications

7.2 11 applications were approved by the Committee. 10 applications were approved between 2002 and 2013 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 ‘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 (close to the Sites) was approved on 18.5.2018 as the site was located at the fringe of the village and surrounded by existing Small Houses and approved applications.

Rejected Applications

7.3 9 applications were rejected by the Committee between 2016 and 2018 mainly for reasons that the proposed development was not in line with the planning intention of the “AGR” zone; land was still available within “V” zone; and 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 did not comply with the Interim Criteria in that more than 50% of the proposed Small House fell 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) currently vacant and mainly covered by wild grass;
- (b) located to the west of the village cluster of Chan Uk Po and fall entirely within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po); and
- (c) accessible via footpaths to the southeast of the Sites. There is a village road, about 40m – 60m to the southeast of the Sites, connecting Tsiu Keng Road.

8.2 The surrounding area is predominantly rural in nature with village houses, temporary structures and active/fallow agricultural land with the following characteristics:

- (a) two village houses covered with planning permissions granted in 2002 (A/NE-KTS/155 and 156) and a Small House site with planning permission granted in 2018 (A/NE-KTS/455) are in the proximity of the Sites;
- (b) to the east are village houses and domestic structures of Chan Uk Po, Tsiu Keng Village;
- (c) to the further south are village houses developed with planning permissions granted before the promulgation of the Interim Criteria (between 1992 and 1995), temporary domestic structures and active/fallow agricultural land; and
- (d) to the west and the north are mainly active/fallow agricultural land and temporary domestic structures.

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%	- 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%	-	- DLO/N, LandsD has advised that the Sites fall entirely within the ‘VE’ of Tsiu Keng Village.
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 260 Small House sites). The outstanding Small House applications for Tsiu Keng Village are 40 ³ while the 10-year Small House demand forecast for the village is about 220.

³ Among the 40 outstanding Small House applications, 12 of them fall within the “V” zones, and 28 straddle or outside the “V” zones including the site of application No. A/NE-KTS/481. 6 sites are with valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications? (Plan A-2b)	✓		- Land available to meet the Small House demand within the two “V” zones of the village concerned: about 2.9 ha (equivalent to about 115 Small House sites).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural point of view as the Sites possess potential for agricultural rehabilitation. The Sites are currently fallow land. Agricultural activities are active in the vicinity and agricultural infrastructures such as footpath and water course are available. The Sites can be used for agricultural activities such as open field cultivation, greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/development?	✓		- The Sites are located in an area predominantly rural in nature with village houses, temporary structures and active/fallow agricultural land.
6.	Within Water Gathering Grounds (WGGs)?		✓	
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				considers that the applications each only involving construction of one Small House can be tolerated.
10.	Drainage impact?		✓	<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection in principle to the applications subject to the condition that the applicants shall submit and implement drainage proposals to ensure that the proposed land use will not cause adverse drainage impact to the adjacent area.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - 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?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications. - The proposed use is considered not incompatible with the existing landscape setting in proximity. - No significant landscape resource was observed. Further significant landscape impact arising from the proposed use is not anticipated. - In view that there is no prominent public frontage surrounding the Sites and the proposed developments are unlikely to cause significant adverse landscape and visual impact, landscape condition is not recommended should the applications be approved.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by District Officer (North) (DO(N))?		✓	- The North District Council (NDC) member of the subject Constituency supported the applications; and the Chairman of the Sheung Shui District Rural Committee (SSDRC), 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 V**.

- (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 12.11.2019, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, a total of 9 public comments on the three applications were received. Three comments (**Appendices VIa to VIc**) (one on each applications) indicate no comment on the applications. The remaining 6 comments (**Appendices VI d to VIi**) from two individuals (one commented on application No. A/NE-KTS/481 and another commented on the three applications), World Wildlife Fund Hong Kong and Designing Hong Kong Limited (both submitted comments on the three applications) object to/raise concerns on the applications mainly on the following reasons:

- (a) The proposed developments are not in line with the planning intention of “AGR” zone.

- (b) The Sites have potential for agricultural rehabilitation.
- (c) Approval of the applications would set an undesirable precedent for similar applications within “AGR” zone and result in a general degradation of the rural environment of the area.
- (d) There is land available within “V” zone of Chan Uk Po and Tsiu Keng. Village house development should be sited close to the village proper as far as possible to maintain an orderly development pattern, efficient use of land and provision of infrastructure and services.
- (e) The Sites are located within the flood pumping gathering ground, further extension of the village cluster onto agricultural land should not be encouraged.
- (f) Septic tank is undesirable.
- (g) The Site of application No. A/NE-KTS/481 is located in close proximity to the local’s well for potable use.

12. Planning Considerations and Assessments

- 12.1 The three applications are for three NTEH (Small House) (one on each Site) which are all 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 does not support the applications from agricultural point of view as the Sites possess potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as footpath and water course are available. The Sites can be used for agricultural activities.
- 12.2 The Sites are currently vacant and mainly covered by wild grass. They are located to the west 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, temporary structures and active/fallow agricultural land. CTP/UD&L considers that significant landscape impact arising from the proposed use is not anticipated. 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. DEP and CE/MN, DSD have no objection to the applications. While C for T has concern on the cumulative adverse traffic impact caused by future similar developments, he considers that the applications could be tolerated given that the applications each only involving construction of one Small House.
- 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 40. 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 115 Small House sites) of land is available within the two “V” zones of Tsiu Keng Village (**Plan A-2b**). 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. Nevertheless, the Sites were granted planning permissions for Small House development in 2014 under planning applications No. A/NE-KTS/355, 356 and 375, but the planning permissions lapsed in 2018. The current applications are submitted by the same applicants for the same use as the previously approved ones. There has been no material change in the planning circumstances in the area since the previous applications were approved in 2014. According to DLO/N, LandsD, the applicants submitted Small House grant applications to LandsD in 2012. The one on the Site of application No. A/NE-KTS/482 was approved in principle in January 2018 pending execution, and the remaining two Small House grant applications were already at an advance stage before their planning permissions lapsed in 2018. In view of the above and considering that there are existing village houses (developed based on A/NE-KTS/155 and 156) and an approved house (A/NE-KTS/455) just next to the Sites, sympathetic consideration may be given to the applications in accordance with the Interim Criteria.

- 12.4 There are 20 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, 9 applications were rejected between 2016 and 2018; 10 applications were approved before adoption of a more cautious approach by the Board in 2015 and another application was approved in 2018, which is located close to the Sites.
- 12.5 Of the 9 public comments received, 6 object to/raise concerns on the applications mainly in the aspects of planning intention, agricultural rehabilitation potential, drainage, sewage treatment, setting undesirable precedent and available land in “V” zone. In this regard, relevant Government departments’ comments and planning assessments as stated in paragraphs 12.1 to 12.4 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 has no objection to the applications.

- 13.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 3.1.2024, 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 VII**.

- 13.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of "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; and
- (b) 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.

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 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.
- 14.3 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.

15. Attachments

Appendix Ia	Application Form with plans and a letter received on 4.11.2019 (Application No. A/NE-KTS/481)
Appendix Ib	Application Form with plans and a letter received on 4.11.2019 (Application No. A/NE-KTS/482)
Appendix Ic	Application Form with plans and a letter received on 4.11.2019 (Application No. A/NE-KTS/483)
Appendix II	Relevant 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
Appendices VIa to VII	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Layout Plan (Application No. A/NE-KTS/481)
Drawing A-2	Proposed Layout Plan (Application No. A/NE-KTS/482)
Drawing A-3	Proposed Layout Plan (Application No. A/NE-KTS/483)
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plans A-2b	Estimated Amount of Land Available for Small House Development within the “V” Zones
Plan A-3	Aerial Photo
Plan A-4	Site Photos