

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/455

- Applicant** : Mr. TSANG Daniel Tjun Khun represented by Mr. PANG Hing Yeun
- Site** : Lot 1232 S.A in D.D. 100, Chan Uk Po Village, Tsiu Keng, Sheung Shui, New Territories
- Site Area** : 154.9 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
- Zoning** : “Agriculture” (“AGR”) (about 74% of the Site)
“Village Type Development” (“V”) (about 26% of the Site)
[Footprint of the proposed Small House: 68% in “AGR” zone and 32% in “V” zone]
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

- 1.1 The applicant who claims to be an indigenous villager¹ of Chan Uk Po seeks planning permission to build a house (NTEH - Small House) on the application site (the Site) in Chan Uk Po², Tsiu Keng, Sheung Shui. The Site falls within an area partly zoned “AGR” (about 74%) and partly zoned “V” (about 26%) on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16 (**Plans A-1 and A-2a**). The Site is currently vacant and covered by grass and some young trees (**Plan A-4**).
- 1.2 According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted within the “V” zone, whereas the proposed new ‘House (NTEH)’ within the “AGR” zone

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

² Tsiu Keng Village comprises 4 areas, Tsiu Keng Pang Uk, Tsiu Keng Lo Wai, Tsiu Keng San Wai and Chan Uk Po. The first three areas fall within one “V” zone and the last one, i.e. Chan Uk Po, falls within another “V” zone.

requires planning permission from the Town Planning Board (the Board).

- 1.3 Layout of the proposed Small House development is shown on **Drawing A-1** and details are as follows:

Covered Area	: 65.03m ²
Total Domestic Gross Floor Area	: 195.09m ²
Number of Storeys	: 3
Building Height	: 8.23m

- 1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with plans received on 29.3.2018 **(Appendix I)**
- (b) Further information dated 9.5.2018 clarifying the **(Appendix Ia)**
dimension of the proposed balcony
(accepted and exempted from publication and recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I**. They are summarized as follows:

- (a) The applicant is an indigenous villager of Tsiu Keng Village Chan Uk Po and he is eligible for the construction of a Small House according to the Small House Policy.
- (b) The Site falls within an area partly zoned “V” and partly zoned “AGR” and wholly within the Village ‘Environ’ (‘VE’) of Tsiu Keng.
- (c) The proposed development is compatible with the surrounding land uses with village houses found in the vicinity.
- (d) The Site has been left derelict for many years and is covered by weeds.
- (e) The proposed development would not cause adverse environmental impact as there is no tree and river in the Site.
- (f) There are approved Small House applications in the vicinity of the Site, e.g. lots 1228 S.A and S.B and 1234 S.A and RP³ (**Plan A-2a**).

³ Lots 1228 S.A and 1228 S.B involve applications No. A/NE-KTS/355 and 356 respectively. Lots 1234 S.A and 1234 RP involve applications No. A/NE-KTS/156 and 155 respectively.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

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

5. Background

The Site is not involved in any active enforcement cases.

6. Previous Application

There is no previous application on the Site.

7. Similar Applications

7.1 There were 20 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 13 applications (Nos. A/NE-KTS/150, 155, 156, 248, 249, 253, 262, 263, 345, 346, 355, 356 and 375) were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2002 and 2014 on the grounds of compliance with the Interim Criteria in that the footprints of the proposed Small Houses fell entirely/mainly within the ‘VE’, and insufficient land within the ‘V’ zone to meet the future Small House demand; not incompatible with the surrounding rural and village environment; and similar approved applications.

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” 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. 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 Site and Its Surrounding Area (Plan A-2a and aerial photos on Plan A-3 and site photos on Plans A-4a and 4b)

8.1 The Site is:

- (a) entirely within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po) and located at the western fringe of Chan Uk Po, Tsui Keng Village with part of the Site within “V” zone;
- (b) generally flat, currently vacant and covered by grass and some young trees; and
- (c) accessible via an existing footpath at its southern side and there is no direct vehicular access. There is a track, about 90m to the southeast, connecting to Tsiu Keng Road.

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

- (a) immediately surrounding the Site to the southwest are 2 Small Houses developed with planning permissions, and 3 approved Small House sites (Applications No. A/NE-KTS/355, 356 and 375) to the northwest and southwest which are currently vacant (**Plan A-2a**); to the further northwest and southwest are active or fallow agricultural land, scattered domestic structures and village houses; and
- (b) to the east and south are mainly fallow agricultural land and village houses within the “V” zone of Chan Uk Po.

9. Planning Intention

9.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. Selected commercial and community uses serving the needs of villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9.2 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 application has 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	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - Footprint of the proposed Small House - Site 	<p>32%</p> <p>26%</p>	<p>68%</p> <p>74%</p>	<ul style="list-style-type: none"> - 32% of the footprint of the proposed Small House falls within “V” zone and 68% within “AGR” zone - 26% of the Site falls within “V” zone and 74% within “AGR” zone
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprints of the proposed Small House - The Site 	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> - within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po) - District Lands Officer/North, Lands Department (DLO/N, LandsD) has advised that the Site falls entirely within the ‘VE’ of Tsiu Keng Village.
3.	<p>Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?</p> <p>(Plans A-2b and A-2c)</p>		<p>✓</p>	<p><u>Land required</u></p> <ul style="list-style-type: none"> - According to DLO/N, the total number of outstanding Small House applications for Tsiu Keng Village (including the subject one) is 44. - As provided by the Indigenous Inhabitant Representative (IIR) of Tsiu Keng, the latest 10-year Small House demand forecast for Tsiu Keng Village is 220. <p><u>Land available</u></p> <ul style="list-style-type: none"> - The total land available within the two “V” zones in Tsiu Keng Village is about 2.9 ha (equivalent to 116 Small House sites).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<ul style="list-style-type: none"> - Outside the “V” zones, 8 proposed Small Houses are granted planning permission but not yet obtained Small House Grant from DLO/N. - Hence, the total number of available sites for Small House in Tsiu Keng Village are 124.
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point of view. Agricultural activities in the vicinity of the Site are very active and the Site possesses a high potentiality of agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The Site is located in an area predominantly rural in nature with village houses, and active and 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 in-principle objection to the application. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✗		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has reservation on the application due to setting undesirable precedent resulting in cumulative adverse traffic impact and advises that Small House development should be confined within the “V” zone as far as possible. - Notwithstanding the above, the application only involves construction of one Small House, he considers that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?		✓	<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has advised that approval condition on the submission and implementation of drainage proposal is required.
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 development, the application alone is unlikely to cause major pollution.
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 application. - the Site is located close to the western fringe of Chan Uk Po. The proposed Small House is not incompatible with the surrounding environment. Significant landscape impact arising from the proposed Small House development is not expected. - Should the application be approved, approval condition on the submission and implementation of landscape proposal is recommended.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by DO(N)?		✓	- The Chairman of the Sheung Shui District Rural Committee (SSDRC), the North District Council (NDC) members of subject constituency, and IIR and the Resident Representative (RR) of Tsiu Keng have no comment on the application.

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Details of comments from Government departments are at **Appendix IV**.

- (a) District Lands Officer/North, Lands Department (DLO/N, LandsD);
- (b) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Environmental Protection (DEP);
- (e) Director of Agriculture, Fisheries and Conservation (DAFC);
- (f) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (g) Director of Fire Services (D of FS);
- (h) Commissioner for Transport (C for T); and
- (i) District Officer (North), Home Affairs Department (DO(N), HAD)

10.3 The following Government departments have no 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(E), CEDD).

11. **Public Comments Received During Statutory Publication Period**

On 10.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.5.2018, a total of 3 public comments were received. Two comments submitted by members of the general public (**Appendices Va to Vb**) indicating support to the application for convenience of the concerned villager and no comment. The remaining comment submitted by the Hong Kong Bird Watching Society (**Appendix Vc**) objects to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone, significant importance of the agricultural land in Tsiu Keng, and responsibility of the Board to minimise adverse impact on conservation zone.

12. Planning Considerations and Assessments

Planning Intention

12.1 The Site falls partly within the “AGR” zone (74%) and partly within the “V” zone (26%). The proposed development is in line with the planning intention of the “V” zone for development of Small Houses. However, it is 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 application from agriculture point of view as very active agricultural activities can be found in the vicinity of the Site and the Site is of high potential for agricultural rehabilitation.

Local Planning Context

12.2 The Site is currently covered by grass and some young trees. It is located at the western fringe of the village cluster and there are a number of approved Small House applications surrounding the Site. The proposed development is not incompatible with surrounding environment which is rural in nature with village houses, and active and fallow agricultural land. It is not anticipated that the proposed development would have significant adverse landscape, drainage and environmental impacts on the surrounding area. While C for T has concern on cumulative adverse traffic impact causing by future similar developments, given that the application involving one Small House only, he considers that the application could be tolerated. Other Government departments consulted, including CTP/UD&L, PlanD, CE/MN, DSD and DEP, have no adverse comment on or no objection to the application.

Interim Criteria

12.3 Based on DLO/N, LandsD’s information, the total number of outstanding Small House applications for Tsiu Keng Village (including Tsiu Keng Pang Uk, Tsiu Keng Lo Wai, Tsiu Keng San Wai and Chan Uk Po) is 44. The 10-year Small House demand forecast for the Village is 220. According to the latest estimate by PlanD, a total of about 2.9 ha (equivalent to 116 Small House sites) of land is available within the two “V” zones in Tsiu Keng Village (**Plans A-2b and 2c**). Besides, 8 proposed Small Houses outside the “V” zones are granted planning permission but not yet obtained Small House Grant from DLO/N. Therefore, the total number of available sites for Small House in Tsiu Keng Village are 124. Hence, there is sufficient land in the “V” zones to meet the 44 outstanding Small House applications though it cannot fully meet the 10-year Small House demand forecast in the long run.

12.4 Regarding the Interim Criteria (**Appendix II**), although 100% of the footprint of the proposed Small House falls within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po) (**Plan A-1**) and land available within the “V” zones is insufficient to meet the future Small House demand, land is available within the “V” zones to meet the outstanding 44 Small House applications (**Plan A-2a**). 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 Site is located at the western fringe of Chan Uk Po, Tsui Keng Village and surrounded by existing Small Houses and approved applications to its immediate northwest and southwest and about 32% of the footprint of the proposed Small House falls within the “V” zone. Therefore, sympathetic consideration can be given to the application.

Similar Applications

- 12.5 There are 13 similar applications in Chan Uk Po which were approved with conditions by the Committee between 2002 and 2014 on the grounds of compliance with the Interim Criteria, and insufficient land within the ‘V’ zone to meet the Small House demand; not incompatible with the surrounding rural and village environment; and similar approved applications.
- 12.6 There are 7 similar applications for Small House development in Chan Uk Po which were rejected by the committee in 2016 mainly for reasons of being not in line with the planning intention of the “AGR” zone; not comply with the Interim Criteria; and land still available within “V” zones of Tsiu Keng Village. The subject application is different from these 7 rejected applications in that the sites of these 7 rejected applications fall outside “V” zone while the Site of the subject application falls partly within “V” zone and is located close to the existing village cluster.

Public Comments

- 12.7 3 public comments are received. One of the public comments objects to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone, significant importance of the agricultural land in Tsiu Keng, and responsibility of the Board to minimise adverse impact on conservation zone, as stated in paragraph 11 above. In this regard, planning considerations and 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 public comments mentioned in paragraph 11, the PlanD has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.5.2022, 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 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;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix VI**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:

- (a) the proposed development is not in line with the planning intention of the "Agriculture" zone in the Tsui Keng area 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" zone 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 application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

15. Attachments

Appendix I

Application Form received on 29.3.2018

Appendix Ia	Further information dated 9.5.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar s.16 Applications for Proposed House (NTEH-Small House) within/partly within the Same “Agriculture” Zone on the Kwu Tung South Outline Zoning Plan
Appendix IV	Comments from Relevant Government Departments
Appendices Va to Vc	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plans A-2b and 2c	Estimated Amount of Land Available for Small House Development within the “V” Zone
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MAY 2018**