

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

**APPLICATION NO. A/NE-KTS/497**

<b><u>Applicant</u></b>	: Mr. LIU Man Ho represented by Mr. PANG Hing Yeun
<b><u>Site</u></b>	: Lot 452 S.A in D.D. 100, Tsiu Keng Pang Uk, Sheung Shui, New Territories
<b><u>Site Area</u></b>	: 159.8m <sup>2</sup> (about)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Draft Kwu Tung South Outline Zoning Plan No. S/NE-KTS/17
<b><u>Zonings</u></b>	: “Agriculture” (“AGR”) (about 96% of the Site) “Village Type Development” (“V”) (about 4% of the Site)
<b><u>Application</u></b>	: Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

- 1.1 The applicant, who claims to be an indigenous villager<sup>1</sup> of Sheung Shui Heung Po Sheung Tsuen, seeks planning permission to build a house (NTEH – Small House) on the application site (the Site) in Tsiu Keng Pang Uk<sup>2</sup>, Sheung Shui. The Site falls within an area mainly zoned “AGR” (about 96%) with a small part zoned “V” (about 4%) on the draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/17 (**Plans A-1 and A-2a**). According to the Notes of the OZP, the proposed ‘House (NTEH)’ in the “AGR” zone requires planning permission from the Town Planning Board (the Board) while it is always permitted in the “V” zone. The Site is currently vacant with a covered car parking area at the eastern portion (**Plan A-4**).

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<sup>1</sup> 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.

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

- 1.2 The proposed Small House has a cover area of 65.03m<sup>2</sup>, 3 storeys (8.23m) and a total gross floor area of 195.09m<sup>2</sup>. The applicant has indicated that the unbuilt area of the Site will be used as circulation area for the Small House. A septic tank will be provided. Layout of the proposed Small House development is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Plans received on 3.5.2021 (Appendix I)
  - (b) Further Information (FI) of 1.6.2021\* (Appendix Ia)
  - (c) FI of 11.7.2021\* (Appendix Ib)
- \* Exempted from publication
- 1.4 On 25.6.2021, the Rural and New Town Planning Committee (the Committee) agreed to defer a decision on the application as requested by the applicant to allow time for preparation of FI to address departmental comments. On 11.7.2021, the applicant submitted FI, and the application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia and Ib**. They are summarised as follows:

- (a) The applicant is an indigenous villager of Sheung Shui Heung Po Sheung Tsuen and he is eligible for the construction of a Small House according to the Small House Policy. There is no available land in his village for erection of Small House. The applicant therefore finds other suitable land for Small House development. The applicant owns this land only and wishes to erect a Small House in the Site for own use.
- (b) Small portion of the Site zoned “V” and the remaining portion zoned “AGR”. The proposed development is compatible with the surrounding areas where village houses are found nearby. There are similar approved planning applications in Tsiu Keng Village.
- (c) There is a minibus station nearby. Therefore, the proposed development does not include a parking space. Residents will not drive any vehicles and only use public transport to reach the Site. It would not cause adverse impact on traffic and villagers nearby.
- (d) The Site is small in size which is a small-scale development. It would not involve tree felling and cause adverse environmental impact. The applicant will strictly follow the requirements of relevant Government departments.

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**

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

5. **Background**

The Site is not subject to any active enforcement action.

6. **Previous Application**

There is no previous application involving the Site.

7. **Similar Applications**

7.1 There are 56 similar applications for Small House development within/partly within the “AGR” zone in the vicinity of “V” zone of Tsiu Keng Lo Wai, Tsiu Keng San Wai and Tsiu Keng Pang Uk 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 There are 26 approved applications involving 17 sites (**Plan A-1**). 22 applications were approved between 2001 and 2015 mainly on the considerations of complying with the Interim Criteria, not incompatible with the surrounding environment and similar approved applications. Since the Board adopted a more cautious approach in 2015, 4 applications have been approved, of which, 2 applications No. A/NE-KTS/421 and 473 are with previous planning permissions. The remaining 2 applications No. A/NE-KTS/420 and 422 were approved considering that although there was sufficient land to meet the outstanding Small House grant applications, the two sites are located close to Tsiu Keng Road, the Small House footprint fell entirely within the Village ‘Environs’ (‘VE’) of Tsiu Keng Village and they are close to a cluster of approved Small Houses.

### *Rejected Applications*

- 7.3 The 30 rejected applications involve 11 sites and most of them are located away from the existing village cluster and/or access road (**Plan A-1**). They were rejected by the Committee or by the Board on review between 2013 and 2017 mainly on the grounds of being not in line with the planning intention of the “AGR” zone and land still available within the “V” zones of Tsiu Keng Villages. Among them, 6 applications No. A/NE-KTS/408 to 411, 414 and 448 were rejected after the Board has adopted a more cautious approach in 2015. These application sites are all without previous planning permissions and not located close to existing village cluster or a cluster of approved Small Houses.

## **8. The Site and Its Surrounding Areas (Plan A-2a, aerial photo on Plan A-3 and site photos on Plan A-4)**

- 8.1 The Site is:

- (a) currently vacant with a covered car parking area at the eastern portion;
- (b) located to the southwest of the village cluster of Tsiu Keng Pang Uk and falls entirely within the ‘VE’ of Tsiu Keng Village; and
- (c) accessible via a local track/footpath to the west of the Site connecting Tsiu Keng Road.

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

- (a) to the immediate northeast is storage; to the further north are mainly village houses within the “V” zone; and
- (b) to the immediate south and west are storage and car park; to the further south and west are active and fallow agricultural land, scattered domestic structures and unused land.

## **9. Planning Intention**

- 9.1 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.
- 9.2 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.

## 10. Comments from Relevant Government Departments

10.1 The application has been assessed against the assessment criteria set out in the Interim Criteria (**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?  - Footprint of the proposed Small House  - Site	2%  4%	98%  96%	The Site and the footprint of the proposed Small House fall largely within “AGR” zone, with a minor portion in “V” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	100%  100%	-	DLO/N, LandsD has advised that the Site falls within the ‘VE’ of Tsiu Keng.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet Small House demand in Tsiu Keng Village: about 11ha (equivalent to about 440 Small House sites). The outstanding Small House applications for Tsiu Keng Village are 40 <sup>3</sup> while the 10-year Small House demand forecast for the village is about 400.
	Sufficient land in “V” zone to meet	✓		- Land available to meet the Small

<sup>3</sup> Among the 40 outstanding Small House applications, 14 of them fall within the “V” zones, and 26 straddle or outside the “V” zones including the subject site and 5 sites with valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
	outstanding Small House applications?  (Plan A-2b)			House demand within the two “V” zones of the village concerned: about 2.8ha (equivalent to about 111 Small House sites).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouse, plant nursery, etc.
5.	Compatible with surrounding area/ development?	✓		The surrounding area is predominantly rural in nature with active and fallow agricultural land, storages and village houses.
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 objection in principle to the application. 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) considers the application could be tolerated from traffic engineering point of view.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
10.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no comment on the application and advises that approval condition requiring submission and implementation of drainage proposal be imposed should the application be approved.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> <li>- 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.</li> <li>- Septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage.</li> </ul>
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> <li>- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the application from the landscape planning perspective.</li> <li>- The Site is partly hard paved with a temporary structure and car parking area. Existing trees and shrubs in fair condition are found outside the southern and western side of the site boundary, which are close to the proposed Small House. Since the affected trees are common species which can be easily sourced in local market, significant adverse landscape impact arising from the development is not anticipated.</li> </ul>
13.	Local objections conveyed by District Officer (North) (DO(N))?		✓	The North District Council (NDC) member of the subject constituency, the Chairman of the Sheung Shui District Rural Committee (SSDRC), the Resident

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
				Representative (RR) of Tsiu Keng, the Indigenous Inhabitant Representative (IIR) of Tsiu Keng and the Chairman of Fung Shui Area Committee have no comment.

10.2 Comments of 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) C for T
- (c) CE/MN, DSD
- (d) DEP
- (e) DAFC
- (f) Chief Engineer/Construction, Water Supplies Department
- (g) CTP/UD&L, PlanD
- (h) D of FS
- (i) DO(N), Home Affairs Department

10.3 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department
- (b) Project Manager (North), Civil Engineering and Development Department

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

On 11.5.2021, the application was published for public inspection. During the three-weeks statutory publication period, 5 public comments were received. Of which, one (**Appendix V-1**) submitted by an individual indicates no comment. The remaining four (**Appendices V-2 to V-5**) submitted by Kadoorie Farm & Botanic Garden Corporation, indigenous inhabitant of Tsiu Keng Lo Wai village and individuals object to the application mainly on the following grounds:

- (a) The proposed development is not in line with the planning intention of “AGR” zone.
- (b) Land is still available within the “V” zone. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services.
- (c) The Site is agricultural land suitable for farming. Tsiu Keng area has been



included for agricultural use.

- (d) Houses are over-concentrated resulting in traffic congestion, environmental pollution, increased fire risk and adverse impacts on ecology, safety and living quality. Use of septic tank is undesirable.

## 12. **Planning Considerations and Assessments**

- 12.1 The application is for a proposed NTEH (Small House) at the Site which is mainly within the “AGR” zone (about 96%) with a small part within the “V” zone (about 4%), while majority of the footprint of the proposed Small House (98%) falls within the “AGR” zone. 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 pond 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 point of view as agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouse, plant nursery, etc. and possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention.
- 12.2 The Site is located to the southwest of the village cluster of Tsiu Keng Pang Uk. The proposed development is not incompatible with the surrounding environment which is rural in nature with active and fallow agricultural land, storages and village houses. CTP/UD&L, PlanD has no objection to the application as significant adverse landscape impact arising from the proposed development is not anticipated. Significant adverse environmental and drainage impacts on the surrounding areas arising from the proposed house is not anticipated. DEP advises that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage. DEP and CE/MN, DSD have no objection to the application. C for T considers the application could be tolerated from traffic engineering point of view.
- 12.3 Regarding the Interim Criteria (**Appendix II**), 100% of the footprint of the proposed Small House falls within the ‘VE’ of Tsiu Keng (**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 Village, the 10-year Small House demand forecast for the Village is about 400. Based on the latest estimate by PlanD, about 2.8 ha (or equivalent to about 111 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. As land is available within the “V” zone to meet the outstanding 40 Small House applications, 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. In this regard, it is considered that sympathetic consideration should not be given to the application.

- 12.4 There are 56 similar applications in the vicinity of Tsiu Keng Village (**Plan A-1**), as stated in paragraph 7. Since adoption of a more cautious approach by the Board in 2015, 4 applications with previous planning permission or located within a cluster of approved Small House applications were approved, and 6 applications were rejected as stated in para. 7.3. The considerations for the rejected applications are generally similar to those of the subject application.
- 12.5 There are 5 public comments as stated in paragraph 11. In this regards, the relevant departmental comments as well as planning considerations and assessments above are relevant.

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

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) 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; and
  - (b) land is still available within the “Village Type Development” zone of Tsiu Keng Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster 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 application, it is suggested that the permission shall be valid until 27.8.2025, 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 approval conditions 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 at **Appendix VI**.

**14. Decision Sought**

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

**15. Attachments**

<b>Appendix I</b>	Application Form with Plans received on 3.5.2021
<b>Appendix Ia</b>	FI of 1.6.2021
<b>Appendix Ib</b>	FI of 11.7.2021
<b>Appendix II</b>	Extract of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Comments from Relevant Government Departments
<b>Appendices V-1 to V-5</b>	Public Comments
<b>Appendix VI</b>	Advisory Clauses
<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 for Small House Development within the “V” Zones

**Plan A-3**

Aerial Photo

**Plan A-4**

Site Photos

**PLANNING DEPARTMENT  
AUGUST 2021**