

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

**APPLICATIONS NO. A/NE-KTS/502 and 503**

<b><u>Applicants</u></b>	: Mr. CHEUNG Kam Fai (Application No. A/NE-KTS/502) Mr. LIU Chan Wah (Application No. A/NE-KTS/503) Both represented by Access Consulting Limited
<b><u>Sites</u></b>	: Lot 1421 S.B (Application No. A/NE-KTS/502) Lot 1421 S.C (Application No. A/NE-KTS/503) Both in D.D.100, Chan Uk Po, Tsiu Keng Village, Sheung Shui, New Territories
<b><u>Site Areas</u></b>	: 204.6m <sup>2</sup> (about) (Application No. A/NE-KTS/502) 178.1m <sup>2</sup> (about) (Application No. A/NE-KTS/503)
<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>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Each application for a Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

- 1.1 The applicants, who are indigenous villagers<sup>1</sup> of Sheung Shui Heung Sheung Shui Village, seek planning permission to build a house (NTEH – Small House) each on the application sites (the Sites) in Chan Uk Po, Tsiu Keng Village<sup>2</sup>, Sheung Shui. The Sites fall within an area zoned “AGR” 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, ‘House (NTEH)’ in “AGR” zone

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<sup>1</sup> As advised by the District Lands Officer/North, Lands Department (DLO/N, LandsD), the eligibilities of the applicants for Small House concessionary grant have been ascertained.

<sup>2</sup> 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.

require planning permission from the Town Planning Board (the Board). The Sites are mostly vacant with some vehicles parked (**Plan A-4**).

- 1.2 The Sites were granted with planning permissions in 2013 under applications No. A/NE-KTS/345 and 346 submitted by the same applicants for proposed House (NTEH – Small House). Both planning permissions lapsed on 17.8.2021.
- 1.3 Each of the proposed Small Houses has a covered area of 65.03m<sup>2</sup>, 3 storeys (8.23m) and a total gross floor area of 195.09m<sup>2</sup>. The applicants have indicated that the unbuilt area of the Sites will be used as garden. A septic tank will be provided for each house. Layouts of the proposed Small House developments are at **Drawings A-1 and A-2**.
- 1.4 In support of the applications, the applicants have submitted the following documents:
  - (a) Application Form with plans received on 15.7.2021 (**Appendix Ia**) (Application No. A/NE-KTS/502)
  - (b) Application Form with plans received on 15.7.2021 (**Appendix Ib**) (Application No. A/NE-KTS/503)

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in **Appendices Ia and Ib**. The applicants stated that they are indigenous villagers in the New Territories. The Small House grant applications have been approved by LandsD. However, arrangement for signing documents was affected due to pandemic.

## **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**

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 use of the Sites for parking of vehicles would be investigated and subject to planning enforcement action.

## 6. **Previous Applications**

- 6.1 The two Sites are the subject of two previous applications (No. A/NE-KTS/345 and A/NE-KTS/346 for A/NE-KTS/503 and A/NE-KTS/502 respectively) each for a proposed House (NTEH – Small House) submitted by the same applicants as the current ones, which were approved by the Rural and New Town Planning Committee (the Committee) in 2013. 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, landscape and environmental impacts to the surrounding areas. In 2017, the validity of the two planning permissions were extended for 4 years. Both planning permissions lapsed on 17.8.2021<sup>3</sup>.
- 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 are 24 similar applications for Small House development within/partly within the “AGR” zone in the vicinity of “V” zone 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 There are 15 approved applications involving 12 sites (**Plan A-1**). 11 applications were approved between 2002 and 2014 mainly on consideration that the applications complied with the Interim Criteria and there was not sufficient land within the “V” zone to satisfy the Small House demand. Since the Board adopted a more cautious approach in 2015, 4 applications have been approved, of which, 3 applications No. A/NE-KTS/481 to 483 are with previous planning permissions. The remaining application No. A/NE-KTS/455 were approved considering that the site was located at the fringe of the village and surrounded by existing houses and approved Small House applications.

### *Rejected Applications*

- 7.3 The 9 rejected applications are located away from the existing village cluster (**Plan A-1**). They were rejected by the Committee in 2016 and 2019 mainly on the grounds 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

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<sup>3</sup> According to DLO/N, LandsD, both Small House grant applications have been approved pending issuance of relevant documents.

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. 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 Sites and Their Surrounding Areas (Plan A-2a, aerial photo on Plan A-3 and site photo on Plan A-4)**

**8.1 The Sites are:**

- (a) mostly vacant with some vehicles parked;
- (b) located to the north of the village cluster of Chan Uk Po, falling entirely within the 'VE' of Tsiu Keng Village (Tsiu Keng Chan Uk Po); and
- (c) accessible via a local track to the west of the Sites connecting Tsiu Keng Road.

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

- (a) to the east is an area covered by trees/vegetation next to a nullah; to the southeast are a car park and vacant structures;
- (b) to the south are mainly village houses within the "V" zone; and
- (c) to the west and north are village houses, domestic structures and active and fallow agricultural land.

**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 set out in the Interim Criteria (**Appendix II**). The assessment is summarised in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone?  - Footprints of the proposed Small Houses  - Sites	-  -	100%  100%	The Sites and the footprints of the proposed Small Houses entirely fall within “AGR” zone.
2.	Within ‘VE’?  - Footprints of the proposed Small Houses  - The Sites	100%  100%	-	DLO/N, LandsD has advised that the Sites fall within the ‘VE’ of Tsiu Keng.
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 11ha (equivalent to about 440 Small House sites). The outstanding Small House applications for Tsiu Keng Village are 40 <sup>4</sup> while the 10-year Small House demand forecast for the village is about 400.
	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 2.8ha (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 applications as the Sites possess potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as greenhouse, plant nursery, etc.

<sup>4</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 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>
5.	Compatible with surrounding area/development?	✓		The surrounding area is 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 objection in principle to 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) considers the applications could be tolerated on traffic ground.
10.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that approval condition requiring submission and implementation of drainage proposal be imposed should the applications 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 developments, the applications alone are 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</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>Department (CTP/UD&amp;L, PlanD) has no objection to the applications from the landscape planning perspective.</p> <p>- The Sites are situated in an area of rural inland plains landscape character surrounded by village houses and vegetated areas. The Sites are vacant with no significant sensitive landscape resource observed. Hence, significant adverse landscape impact arising from the applications is not anticipated.</p>
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 Indigenous Inhabitant Representative (IIR) of Tsiu Keng, the Resident Representative (RR) 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 V**.

- (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 applications:

- (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 23.7.2021, the applications were published for public inspection. During the three-weeks statutory publication period, a total of 6 public comments on the two applications were received. Two comments (**Appendices VI-1 and VI-2**) (one on each applications) both submitted by an individual indicate no comment. The remaining 4 comments (**Appendices VI-3 to VI-6**) from Kadoorie Farm and Botanic Garden Corporation and individuals object to both applications mainly on the following grounds:

- (a) The proposed development is not in line with the planning intention of “AGR” zone.
- (b) Land available for Small Houses within the nearby “V” zone should be investigated.
- (c) Agricultural Park is located in Kwu Tung South.
- (d) The previous approvals were almost a decade ago. The Board should consider the applications as fresh applications. Application No. A/NE-KTS/471<sup>5</sup> was rejected in 2019 on the ground that land is still available within the “V” zones of Tsiu Keng Village. There can be little material change in the interim period.
- (e) Houses are over-concentrated resulting in traffic congestion, environmental pollution, increased fire risk and adverse impacts on ecology, safety and living quality.

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

- 12.1 The two applications are for two proposed NTEHs (Small Houses) (one on each Site) which are both 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 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 applications from agricultural point of view as agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as greenhouse, plant nursery, etc. and possess potential for agricultural rehabilitation.
- 12.2 The Sites were granted planning permissions for Small House developments in 2013 under planning applications No. A/NE-KTS/345 and 346, but the planning permissions lapsed on 17.8.2021. According to DLO/N, LandsD, both applications for Small House grant on the Sites have been approved, pending

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<sup>5</sup> As stated in paragraph 7.3 above, the site of application No. A/NE-KTS/471 located to the southeast of the Sites (**Plan A-2a**) has no previous planning permission and is not located close to the existing village cluster or a cluster of approved Small Houses.



issuance of relevant documents. The current applications are submitted by the same applicants for the same use as the previously approved ones.

- 12.3 The Sites are mostly vacant with some vehicles parked. They are located close to the village cluster of Chan Uk Po surrounded by approved Small House applications to the south and west. The proposed development is not incompatible with the surrounding environment which is rural in nature with village houses and active and fallow agricultural land. CTP/UD&L, PlanD has no objection to the applications as significant adverse landscape impact arising from the proposed developments is not anticipated. Significant adverse environmental and drainage impacts on the surrounding areas arising from the proposed houses are 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 applications. C for T considers the applications could be tolerated on traffic ground.
- 12.4 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 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. Nevertheless, as mentioned above, the Small House grant applications on the Sites are being processed by DLO/N, LandsD and at advance stage. There has been no material change in the planning circumstances in the area since granting of previous planning permissions. In view of the above and considering that there are existing village houses (developed based on A/NE-KTS/248, 249 and 253) just next to the Sites, sympathetic consideration may be given to the applications in accordance with the Interim Criteria.
- 12.5 There are 24 similar applications in the vicinity of Chan Uk Po, 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 9 applications were rejected as stated in paragraph 7.3.
- 12.6 There are 6 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 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 10.9.2025, 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 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 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 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" ("V") 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 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 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**

<b>Appendix Ia</b>	Application Form with Plans received on 15.7.2021 (Application No. A/NE-KTS/502)
<b>Appendix Ib</b>	Application Form with Plans received on 15.7.2021 (Application No. A/NE-KTS/503)
<b>Appendix II</b>	Extract of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Comments from Relevant Government Departments
<b>Appendices VI-1 to VI-6</b>	Public Comments
<b>Appendix VII</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan (Application No. A/NE-KTS/502)
<b>Drawing A-2</b>	Proposed Layout Plan (Application No. A/NE-KTS/503)
<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
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
SEPTEMBER 2021**