

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/535

Applicant : Mr. LIU Tsz Wai represented by Access Consulting Limited

Site : Lot 1228 S.B in D.D. 100, Chan Uk Po, Tsiu Keng, Sheung Shui, New Territories

Site Area : 157.9m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/20 (currently in force)

Draft Kwu Tung South OZP No. S/NE-KTS/19 (at the time of submission)

Zoning : “Agriculture” (“AGR”)

Application : Proposed House (New Territories Exempted House (NTEH) — Small House)

1. The Proposal

- 1.1 The applicant who claims himself to be an indigenous villager of Sheung Shui Heung¹ seeks planning permission to build a house (NTEH - Small House) on the application site (the Site) in Chan Uk Po, Tsiu Keng, Sheung Shui. The Site falls within an “AGR” zone on the approved Kwu Tung South OZP No. S/NE-KTS/20 (**Plans A-1 and A-2a**). According to the Notes of the OZP, the proposed ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use in the “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is vacant and covered by wild grass (**Plan A-4**).

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

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	: 195.09m ²
Number of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m ²

1.3 Layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as private garden area. There is no vehicular access to the Site.

1.4 The Site is the subject of two previous applications No. A/NE-KTS/356 and 481 for the same use submitted by the same applicant of the current application. These applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2014 and 2020 respectively. The planning permission for A/NE-KTS/356 subsequently lapsed in 2018, while that for A/NE-KTS/481 lapsed in 2024 (see details under paragraph 6 below).

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

Application Form with plans received on 26.3.2024	(Appendix I)
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2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I** and are summarized as follows:

- (a) The applicant is an indigenous villager in the New Territories and he has only one chance in his lifetime to apply for construction of NTEH Small House.
- (b) The Site falls within low density area with good air ventilation. In view of close proximity to open space and access road, the Site is suitable for building a Small House.
- (c) The proposed Small House will meet Government departments' requirements.

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 NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set

of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is the subject of two previous applications No. A/NE-KTS/356 and 481 for Small House development. Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/NE-KTS/356 submitted by the applicant of the current application was approved with conditions on 3.1.2014 (i.e. before the formal adoption of a more cautious approach by the Board since 14.8.2015²) mainly on the considerations that the proposed Small House complied with the then Interim Criteria in that its footprint fell within the 'VE' of Chan Uk Po, Tsiu Keng and there was a general shortage of land in meeting the demand for Small House development in the "V" zone of Tsiu Keng at the time of consideration; the application site was located close to Chan Uk Po, Tsiu Keng with similar approved applications in the vicinity; the proposed Small House was not incompatible with the surrounding land uses; and there would be no significant adverse traffic, environment, drainage and landscape impacts to the surrounding areas. The planning permission of that approved application subsequently lapsed on 4.1.2018.
- 6.3 Application No. A/NE-KTS/481 also submitted by the applicant of the current application was approved with conditions on 3.1.2020 mainly on the considerations that the site was the subject of previously approved planning application submitted by the same applicant for the same use; the Small House grant application was already at an advance stage; the site was located close to similar approved applications in the vicinity; and the proposed Small House was not incompatible with the surrounding land uses; and there would be no significant adverse traffic, environment, drainage and landscape impacts to the surrounding areas. The planning permission of that approved application subsequently lapsed on 4.1.2024.

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

7. Similar Applications

- 7.1 There have been 15 similar applications involving 13 sites for Small House development within/partly within the same “AGR” zone in the vicinity of the Site in Chan Uk Po, Tsiu Keng since the first promulgation of the Interim Criteria on 24.11.2000.
- 7.2 Five of the applications (No. A/NE-KTS/150, 155, 156, 355 and 375) were approved by the Committee between 2002 and 2014 (i.e. before the Board’s formal adoption of a more cautious approach since August 2015) mainly on the considerations that the application complied with the then Interim Criteria in that the entire/majority of the footprint of the proposed Small House fell within the ‘VE’; and there was not sufficient land within the “V” zone to satisfy the Small House demand.
- 7.3 After the formal adoption of the more cautious approach by the Board in 2015, three applications were approved by the Committee between 2018 and 2020. Application No. A/NE-KTS/455 was approved in 2018 mainly on sympathetic considerations that the site was located at the fringe of Chan Uk Po, Tsiu Keng and surrounded by existing Small Houses; and part of the footprint of the proposed Small House fell within the “V” zone. The remaining two applications (No. A/NE-KTS/482 and 483) were approved in 2020 mainly on the considerations that the sites was the subject of previously approved planning application submitted by the same applicants for the same use.
- 7.4 The remaining seven applications (No. A/NE-KTS/424 - 428, 430 and 431) were rejected by the Committee in 2016 (after the formal adoption of the more cautious approach by the Board) mainly on the ground that the proposed Small House was not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Chan Uk Po, Tsui Keng.
- 7.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-2a**.

8. The Site and Its Surrounding Areas (Plans A-1, A-2a, and aerial photo on Plan A-3 and site photos on Plan A-4)

- 8.1 The Site is:
- (a) vacant and covered by wild grass;
 - (b) located to the west of the village cluster of Chan Uk Po, Tsiu Keng and falls entirely within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po); and
 - (c) accessible via a footpath from the southwest. There is a village road, about 50m to the southeast of the Site, connecting with Tsiu Keng Road.

8.2 The surrounding areas are predominantly rural in nature with village houses and active/fallow agricultural land with the following characteristics:

- (a) to the immediate south are two village houses. To the further east and south are village houses intermixed with temporary domestic structures, active/fallow agricultural land and cluster of trees; and
- (b) to the west and the north are mainly active/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 application has been assessed against the assessment criteria of the Interim Criteria detailed 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? - The Site - Footprint of the proposed Small House	- -	100% 100%	- The Site and the footprint of the proposed Small House falls wholly within “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Site falls entirely within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required for meeting Small House demand in the entire Tsiu Keng ³ : about 4.9 ha (equivalent to about 196 Small House sites). The outstanding Small House applications for the entire Tsiu Keng are 36 ⁴ (including 15 for Tsui Keng Chan Uk Po ⁵ and a total of 21 for Tsiu Keng Lo Wai, Tsiu Keng Pang Uk and Tsiu Keng San Wai) while the 10-year Small House demand forecast for the entire Tsiu Keng is 160.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zones of the entire Tsui Keng: about 2.59 ha (equivalent to about 103 Small House sites), including about 0.75 ha (equivalent to about 30 Small House sites) within the “V” zone for Tsui Keng Chan Uk Po (Plan A-2b).

³ Includes Tsiu Keng Chan Uk Po, Tsiu Keng Lo Wai, Tsiu Keng Pang Uk and Tsiu Keng San Wai.

⁴ Among the 36 outstanding Small House applications in Tsiu Keng, 13 of them fall within the “V” zones, and 23 straddle or outside the “V” zones including two sites with valid permissions approved by the Committee.

⁵ Among the 15 outstanding Small House applications in Tsiu Keng Chan Uk Po, 2 of them fall within concerned “V” zone, and 13 straddle or outside the “V” zone including one site with valid planning permission approved by the Committee.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective. The Site falls within “AGR” zone and is generally abandoned and occupied by some wastes. The 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 open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that the Site is situated in an area of rural inland plain landscape character comprising village houses, farmlands, vacant lands and clusters of trees.
6.	Within Water Gathering Grounds (WGGs)?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no objection to the application provided that the proposed Small House would not encroach on any EVA or planned EVA. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - Commissioner for Transport (C for T) advises that Small House development should be confined within “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside “V” zone, if permitted, will set an undesirable precedent for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the application only involves construction of one Small House and can be tolerated on traffic grounds.
10.	Drainage impact?		✓	<ul style="list-style-type: none"> - Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - Director of Environmental Protection (DEP) advises that in view of the small-scale nature of the proposed development, the application alone is 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"> - CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective. - The Site is vacant covered with vegetation. No landscape resources of high sensitivity are observed within the Site. Significant adverse landscape impact within the Site arising from the proposed development is not anticipated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by District Officer (North)?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of the Sheung Shui District Rural Committee (SSDRC), two Indigenous Inhabitant Representatives (IIRs), the Resident Representative (RR) of Tsiu Keng and 4 members of the North District Council (NDC) have no comment on the application. 19 members of the NDC did not reply by deadline.

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) DAFC;
- (c) C for T;
- (d) DEP;
- (e) CE/MN, DSD;
- (f) CE/C, WSD;
- (g) D of FS;
- (h) CTP/UD&L, PlanD; and
- (i) DO(N), HAD.

10.3 The following Government departments have no comment on the application. Their other detailed comments, if any, are at **Appendix V**:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Project Manager (North Development Office), Civil Engineering and Development Department (PM(NDO), CEDD); and
- (d) Commissioner for Police (C for P).

11. Public Comments Received During Statutory Publication Period

On 5.4.2024, the application was published for public inspection. During the statutory public inspection period, one objecting public comment from an individual was received mainly on the ground that the applicant was not an indigenous villager of Tsiu Keng (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for a NTEH (Small House) at the Site within the “AGR” zone. The proposed development 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 agricultural point of view as agricultural infrastructures such as road access and water source are available and the Site can be used for agricultural activities and possesses potential for agricultural rehabilitation.
- 12.2 The Site is located to the west of the village cluster of Chan Uk Po, and is entirely within the ‘VE’ of Tsiu Keng (Tsiu Keng Chan Uk Po). The proposed Small House is not incompatible with the surrounding environment, which is rural in character comprising village houses, farmlands, vacant lands and clusters of trees. CTP/UD&L, PlanD has no objection to the application from landscape planning perspective as significant landscape impact within the Site arising from the proposed development is not anticipated. Besides, other relevant departments, including DEP, CE/C, WSD, CE/MN, DSD and D of FS have no objection to or no adverse comment on the application. C for T considers that the application could be tolerated given that the application involving one Small House only.
- 12.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/N, LandsD, the number of outstanding Small House applications for the entire Tsiu Keng is 36, while the 10-year Small House demand forecast is 160. Based on the latest estimate by PlanD, about 2.59 ha of land (equivalent to about 103 Small House sites) is available within the “V” zones for the entire Tsiu Keng (**Plan A-2b**) which is insufficient to fully meet the said future Small House demand. Nevertheless, the land available within the “V” zone of Tsui Keng Chan Uk Po (i.e. about 0.75 ha, equivalent to about 30 Small House sites) is sufficient to accommodate the 15 outstanding Small House applications of Chan Uk Po. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among 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 as provided by LandsD. As such, 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. Nevertheless, the Site is the subject of two previously approved applications. The last application No. A/NE-KTS/481 was submitted by the same applicant of the current applicant. Compared with the last application, the major development parameters and footprint of the proposed Small House under the current application are generally the same. Furthermore, as advised by DLO/N, the application for Small House Grant for the Site is still being processed. In this regard, sympathetic consideration may be given to the application.

- 12.4 There are 15 ~~approved~~ similar applications for Small House development within/partly within the same “AGR” zone in the vicinity of the Site (**Plans A-2a**). Among them, three applications were approved by the Committee between May 2018 and January 2020 after the Board’s formal adoption of a more cautious approach mainly on considerations that the site was the subject of previously approved application submitted by the same applicant. The planning circumstances of the current application are similar to the approved applications.
- 12.5 Regarding the one objecting public comment received during the statutory public inspection period of the application detailed under paragraph 11, the comments of DLO/N, LandsD above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made under paragraph 12, the Planning Department 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 24.5.2028, 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 recommended advisory clauses are attached at **Appendix VI**.
- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members reference:
- (a) the proposed development 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. There is no strong planning justification in the submission for a departure from the planning intention; and
 - (b) land is still available within the “V” zone of Tsiu Keng which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the existing village cluster for 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 application and decide whether to grant or refuse to grant the 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

Appendix I	Application Form with plans received on 26.3.2024
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
Appendix VI	Public Comment
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” Zone
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
MAY 2024**