

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/456

- Applicant** : Mr. LEE Chi Hong represented by Goodluck Consultants & Co.
- Site** : Lot 819 in D.D. 100, Hang Tau Village, Sheung Shui, New Territories
- Site Area** : 80.6 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”)
- 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 Hang Tau Village seeks planning permission to build a house (NTEH - Small House) on the application site (the Site) in Hang Tau Village, Sheung Shui. The Site falls 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**). The Site is currently vacant and covered by wild grass (**Plan A-4**).
- 1.2 According to the Notes of the OZP, the proposed ‘House (NTEH)’ in “AGR” 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	: 63.18m ²
Total Domestic Gross Floor Area	: 189.54m ²
Number of Storeys	: 3
Building Height	: 8.23m

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.

The applicant has indicated that the uncovered area of the Site will be used as safety and emergency access road and fire belt.

- 1.4 In support of the application, the applicant has submitted an Application Form with letter and plans received on 25.4.2018 (**Appendix I**).

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) Small House application² on the Site submitted by the same applicant was approved with conditions on 29.10.2010.
- (b) As requested by District Lands Officer/North, Lands Department (DLO/N, LandsD) in 2017, the applicant modified the position of the Small House in order to confine the proposed Small House within the subject lot without involving Government land.

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

- 6.1 The Site is involved in a previous application No. A/NE-KTS/300 for proposed House (NTEH—Small House) submitted by the same applicant. Details of the

² Planning application No. A/NE-KTS/300 (**Plan A-2b**) covering the Site and the adjoining Government land for proposed house (NTEH – Small House) was approved with conditions by the Committee on 29.10.2010 and the planning permission was lapsed 30.10.2014. Compared with the previous application, the areas of the Site and the house in the current application are reduced, see paragraph 6.2.

previous application are summarized at **Appendix III** and its location is shown on **Plan A-2b**.

- 6.2 Application No. A/NE-KTS/300 was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 29.10.2010 mainly on the grounds of compliance with the Interim Criteria in that the Site and the footprint of the proposed Small Houses fell entirely within the village ‘environs’ (‘VE’) of Hang Tau, and there was a general shortage of land within the “Village Type Development” (“V”) zone of the village to meet the demand for Small House development; being not incompatible with the adjacent village setting and the surrounding environment of a rural character; and similar approved applications in the vicinity. The planning permission was lapsed on 30.10.2014. As compared with the previously approved application, the site area and the footprint of the proposed Small House are slightly reduced by about 29m² and 2m² respectively to avoid encroaching upon adjoining Government land; and the proposed Small House footprint and the septic tank location are revised (**Plan A-2b**).

7. **Similar Applications**

- 7.1 There are 44 similar applications at 34 locations for Small House development within/partly within the “AGR” zone in the vicinity of Hang Tau Village 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 **Plans A-1 and A-2c**.

Approved Applications

- 7.2 39 applications were approved with conditions by the Committee. 37 applications (No. A/NE-KTS/135 to 144, 146 to 149, 152, 158 to 161, 190, 209 to 213, 252, 255, 259, 279 to 281, 289, 314, 329, 330, 358 and 360) were approved between 2001 and 2014 mainly on considerations 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 2 applications No. A/NE-KTS/444 and 445 were approved on 3.2.2017 as planning permissions had been granted to previous applications for the same use on the sites and there was no material change in the planning circumstances since then.

Rejected Applications

- 7.3 5 applications for proposed NTEHs/Small House were rejected by the Committee or by the Board on review. Among others, 3 applications (No. A/NE-KTS/368, 388 and 402) were rejected between 2014 and 2015 mainly for reasons of being not in line with the planning intention of the “AGR” zone; setting undesirable precedent causing cumulative adverse traffic and landscape impacts to the area; and not complying with the Interim Criteria in that more than 50% of the site and/or the footprint of the proposed Small House fall outside both the ‘VE’ and “V” zone and land is still available within the “V” zone.
- 7.4 Since the Board adopted a more cautious approach in considering applications for

Small House development in recent years as stated in paragraph 12.3. 2 applications (No. A/NE-KTS/443 and 447) were rejected in 2017 mainly for reasons of being not in line with the planning intention of the “AGR” zone and availability of land within “V” zone.

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

8.1 The Site is:

- (a) generally flat, currently vacant and covered by wild grass;
- (b) located to the immediate south of the village cluster of Hang Tau Village and falls entirely within the ‘VE’ of Hang Tau; and
- (c) accessible via an existing footpath at its western side and there is no direct vehicular access. There is a village road, about 80m to the northwest, connecting to Hang Tau Road.

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

- (a) to the north and northwest are village houses, domestic structures, office and car park;
- (b) to the east is a well-vegetated knoll and permitted burial ground;
- (c) to the immediate south is vacant land covered by wild grass and trees and to the further south is Sheung Yue River; and
- (d) to the west is domestic structures and active farmland.

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 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 	-	100%	- The Site and the footprint of the proposed Small House falls wholly within “AGR” zone.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprints of the proposed Small House - The Site 	100%	-	- DLO/N, LandsD has advised that the Site falls entirely within the ‘VE’ of Hang Tau.
3.	<p>Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?</p> <p>(Plan A-2d)</p>		✓	<ul style="list-style-type: none"> - Land required to meet Small House demand: about 81.4 ha (equivalent to about 3,256 Small House sites). The outstanding Small House applications for Hang Tau Village (including the subject one) are 56 while the 10-year Small House demand forecast for the same village is about 3,200. - Land available to meet Small House demand within the “V” zone of the village concerned: about 4.36 ha (equivalent to about 174 Small House sites).
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	<p>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 potentiality of agricultural rehabilitation.</p>
5.	<p>Compatible with surrounding area/ development?</p>	✓		<p>The Site is located in an area predominantly rural in nature with village houses, wooded area and active agricultural land.</p>
6.	<p>Within Water Gathering Grounds (WGGs)?</p>		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has reservation on the application due to setting undesirable precedent resulting in cumulative adverse traffic impact, but considers that the application only involving construction of one Small House can be tolerated.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advised that approval condition requiring submission and implementation of drainage proposal should the application be approved.
11.	Sewerage impact?		✓	- 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. - Septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage.
12.	Landscaping impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application. - The proposed Small House is close to the southern fringe of Hang Tau Village, thus it is not incompatible with the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>surroundings. The Site is covered with the wild grass with no trees. Adverse impact to the landscape resource arising from the proposed use is not anticipated.</p> <p>- As the proposed building layout will occupy almost the entire site leaving inadequate space for landscape works, landscape condition is impracticable.</p>
13.	Local objections conveyed by DO(N)?		✓	<p>- The North District Council (NDC) members of subject constituency supports the application as the applicant is indigenous villager and the proposed development would not cause impacts to Hang Tau Village.</p> <p>- The Chairman of the Sheung Shui District Rural Committee (SSDRC), the Resident Representative (RR) and the Indigenous Inhabitant Representative (IIR) of Hang Tau have no comment on the application.</p>

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

- (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 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 25.5.2018, a total of 4 public comments were received. Two comments submitted by the North District Council member of the subject Constituency and a member of the general public (**Appendices VIa and VIb**) indicate support to the application with reasons of no impacts to be caused by the proposed Small House and for convenience of the concerned villager. A comment submitted by a member of the general public (**Appendix VIc**) has no comment on the application. The remaining comment submitted by a member of the general public (**Appendix VI d**) mainly opines that as the previous planning permission has lapsed, the proposed development should be considered under current policy guidelines, and raises concern on the undesirability of septic tanks and the planning intention of “AGR” zone.

12. Planning Considerations and Assessments

Planning Intention

- 12.1 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 agriculture point of view as very active agricultural activities can be found in the vicinity of the Site and the Site is of potential for agricultural rehabilitation.

Interim Criteria

- 12.2 According to DLO/N, LandsD, the total number of outstanding Small House applications for Hang Tau Village is 56. As provided by the IIR of Hang Tau, the 10-year Small House demand forecast for the Village is about 3,200. Based on the latest estimate by PlanD, about 4.36 ha (or equivalent to about 174 Small House sites) of land is available within the “V” zone of Hang Tau Village (**Plan A-2d**). There is sufficient land available within the “V” zone to meet the outstanding Small House applications though it cannot fully meet the 10-year Small House demand.
- 12.3 Regarding the Interim Criteria (**Appendix II**), 100% of the footprint of the proposed Small House falls within the ‘VE’ of Hang Tau (**Plan A-1**) and land available within the “V” zone is insufficient to meet the future Small House demand. Land is available within the “V” zone to meet the outstanding 56 Small House applications. 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 the subject of a previously approved planning application No. A/NE-KTS/300 for the same use and submitted by the same applicant, though the site area and the footprint of the proposed Small House are slightly reduced in order to avoid encroaching upon Government land. There has been no material change in the planning circumstances in the area since the previous application was approved in 2010. The Small House grant application submitted by the applicant to LandsD on the Site is being processed by LandsD. According to the Interim Criteria, sympathetic consideration may be given to application for Small House with previous planning permission.

Local Planning Context

- 12.4 The Site is currently covered by wild grass. It is located to the immediate south of the village cluster of Hang Tau Village. The proposed development is not incompatible with surrounding environment which is rural in nature with village houses, wooded area and active agricultural land. 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 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 and CE/MN, DSD, have no adverse comment on or no objection to the application.

Similar Applications

- 12.5 There are 44 similar applications at 34 locations for proposed Small House development which fell entirely/partly within the same “AGR” zone in the vicinity of Hang Tau Village (**Plans A-1 and 2c**).
- 12.6 39 applications were approved with conditions by the Committee mainly on considerations 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. Since the Board adopted a more cautious approach in recent years as stated in paragraph 12.3, 2 applications No. A/NE-KTS/444 and 445 were approved in 2017 as planning permission had been granted to previous applications for the same use on the sites and there was no material change in the planning circumstances since then. As the Site was granted planning permission for Small House development (application No. A/NE-KTS/300) in 2010, approval of the current application is in line with the Committee’s previous decision.
- 12.7 Other 5 applications for proposed NTEHs/Small House were rejected mainly for reasons of being not in line with the planning intention of the “AGR” zone, setting undesirable precedent causing cumulative adverse traffic and landscape impacts to

the area, availability of land within “V” zone, and/or not complying with the Interim Criteria in that more than 50% of the site and/or footprint of the proposed Small House fall outside the ‘VE’ and “V” zone.

Public Comments

12.8 Of the 4 public comments received, none objects to the application while one commenter opines that as the previous application has lapsed, the proposed development should be considered under current policy guidelines, and raises concern on the undesirability of septic tanks and the planning intention of “AGR” zone, as stated in paragraph 11 above. In this regard, planning considerations and assessments as stated in paragraphs 12.1 to 12.7 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 15.6.2022, 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; 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 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 Hang Tau Village 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 Hang Tau 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 application 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 with letter and plans received on 25.4.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous Application
Appendix IV	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 V	Comments from Relevant Government Departments
Appendices VIa to VI d	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Site Plan of the Previous Application
Plans A-2c and 2d	Estimated Amount of Land Available for Small House Development within the “V” Zone
Plan A-3	Aerial Photo
Plan A-4	Site Photos