

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/468

- Applicant** : Mr. LIU King Yung represented by Mr. PANG Hing Yeun
- Site** : Lot 496 S.F in D.D. 94, Hang Tau, Sheung Shui, New Territories
- Site Area** : 125.42 m²
- 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 Sheung Shui Heung 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**). According to the Notes of the OZP, the proposed ‘House (NTEH)’ in “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is vacant and partly covered by wild grass (**Plan A-4**).
- 1.2 The Site was granted with planning permission on 19.8.2011 under application No. A/NE-KTS/314 submitted by another applicant for a proposed House (NTEH— Small House). The planning permission lapsed on 20.8.2015.
- 1.3 The proposed Small House has a covered area of 65.03m², 3 storeys (8.23m) and a total gross floor area of 195.09m². The applicant has indicated that the uncovered area of the Site will be used as circulation area. Septic tank will be provided. Layout of the proposed Small House development is at **Drawing A-1**.

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.

1.4 In support of the application, the applicant has submitted an Application Form with plans received on 8.3.2019 (**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) The applicant is an indigenous villager of Sheung Shui Heung and he is eligible for the construction of a Small House according to the Small House Policy. He does not have alternative site to build a Small House.
- (b) The Site falls within the Village ‘Environs’ (‘VE’) of Hang Tau. The proposed development is compatible with the surrounding land uses with a number of approved Small Houses (i.e. Lot 496 S.C, 496 S.D and 496 S.G) found in the vicinity (**Plan A-2b**).
- (c) There is no tree in the Site. The proposed development would not cause adverse environmental impact.
- (d) The previous application for Small House development at the Site was approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2011. Since the Site was involved in legal matter, the Small House application was affected. The legal matter has been solved and LandsD has re-activated the processing of the Small House application.

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 latest set of Interim Criteria for Consideration of Application for NTEH/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 subject to planning enforcement action.

6. Previous Application

- 6.1 The Site is the subject of a previous application No. A/NE-KTS/314 submitted by another applicant for a proposed House (NTEH – Small House) which was approved with conditions on 19.8.2011 mainly on the grounds of complying with the Interim Criteria in that the Small House footprint fell within the ‘VE’ of Hang Tau and there was a general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Hang Tau Village, locating close to Hang Tau Village with similar approved applications in the vicinity, being not incompatible with the surrounding land uses, and no significant adverse traffic, environment, drainage and landscape impacts to the surrounding areas. The planning permission lapsed on 20.8.2015.
- 6.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plan A-2a**.

7. Similar Applications

- 7.1 There are 45 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 40 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, 300, 329, 330, 358, 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 3 applications No. A/NE-KTS/444, 445 and 456 were approved in 2017 and 2018 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 were rejected by the Committee or by the Board on review. Of which, 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 sites and/or the footprint of the proposed Small Houses fall outside both the ‘VE’ and “V” zone and land was 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 12.4 below. 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 to meet the outstanding Small House applications.

8. The Site and Its Surrounding Areas (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, vacant and partly covered by wild grass;
- (b) located to the immediate east of the village cluster of Hang Tau village and falls entirely within the ‘VE’ of Hang Tau; and
- (c) accessible via a footpath to the west of the Site and there is no direct vehicular access. There is a village road, about 120m to the southwest of the Site, connecting Hang Tau Road.

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

- (a) to the immediate north and east are village houses which are mentioned by the applicant in paragraph 2(b) above. These houses were developed with planning permissions granted between 1999 and 2007. To the further north, and east as well as south are mainly plant nursery, scattered domestic structures and active/fallow agricultural land; and
- (b) to the southwest and west are village houses of Hang Tau village.

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	Within “V” zone? - Footprint of the	-	100%	- The Site and the footprint of the proposed Small House falls wholly within “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	proposed Small House - Site	-	100%	
2.	Within 'VE'? - Footprint of the proposed Small House - The Site	100% 100%	- -	- DLO/N, LandsD has advised that the Site falls entirely within the 'VE' of Hang Tau.
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 Hang Tau Village: about 81.4 ha (equivalent to about 3,254 Small House sites). The outstanding Small House applications for Hang Tau Village are 54 ² while the 10-year Small House demand forecast for the same village is about 3,200.
	Sufficient land in "V" zone to meet outstanding Small House applications? (Plan A-2d)	✓		- Land available to meet the Small House demand within the "V" zone of the village concerned: about 4.42 ha (equivalent to about 176 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 from agricultural point of view. Agricultural infrastructures such as road access and irrigation source are available and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The Site is located in an area predominantly rural in nature with village houses, plant nursery and active/fallow agricultural land.

² Among the 54 outstanding Small House applications, 26 of them fall within the "V" zone, and 28 straddle or outside the "V" zone including the subject application site and 3 sites with valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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.
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 be imposed should the application be approved.
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 developments, 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 from the landscape

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>planning perspective.</p> <ul style="list-style-type: none"> - Based on his site visit conducted on 29.3.2019, the Site was a vacant land covered with self-seeded vegetation, and an undersized existing tree was found at the southern boundary within the Site. Further significant landscape impact arising from the proposed use is not anticipated. - In view that there is inadequate space for meaningful landscape within the Site, landscape condition is not recommended.
13.	Local objections conveyed by District Officer (North) (DO(N))?	✓		<ul style="list-style-type: none"> - The Resident Representative (RR) of Hang Tau objects to the application mainly on the grounds that significant flooding in the vicinity of the Site in the rain season remains unsolved. The flooding issue should be addressed. - The North District Council (NDC) member of subject constituency supports the application. The Chairman of the Sheung Shui District Rural Committee (SSDRC) and the Indigenous Inhabitant Representatives (IIRs) of Hang Tau have no comment on the application.

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) D of FS;
- (d) C for T;
- (e) CE/MN, DSD;
- (f) DEP;
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C,WSD);
- (h) CTP/UD&L, PlanD; and
- (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 (CHE/NTE, HyD); and
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

11. Public Comments Received During Statutory Publication Period

On 15.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.4.2019, a total of 3 public comments from members of the general public were received. Two comments (**Appendices VIa to VIb**) object to/raise concerns on the application mainly on the grounds of getting over-crowded in the area, blocking of views, Small Houses clusters resulting in villa style developments, not justifiable for villagers selling Small House rights to build Small Houses on land zoned “AGR”, undesirability of septic tanks, and that the consideration of the application should be in line with the current stringent policies with regard to the development of “AGR” zone. The remaining comment (**Appendix VIc**) indicates no comment.

12. Planning Considerations and Assessments

- 12.1 The application is for a NTEH (Small House) 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 irrigation source are available and the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention.
- 12.2 According to DLO/N, LandsD, the total number of outstanding Small House applications for Hang Tau Village is 54. As provided by the IIRs 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 4.42 ha (or equivalent to about 176 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 The Site is partly covered by wild grass. It is located to the immediate east 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, plant nursery and active/fallow 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 drainage and environmental impacts on the surrounding area. While C for T has concern on cumulative adverse traffic impact caused 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.

- 12.4 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. However, land is available within the "V" zone to meet the 54 outstanding 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. For the current application, there is still land available in the "V" zone to meet the 54 outstanding Small House applications. Although the Site was granted with planning permission in 2011 for the same use, the planning permission lapsed in 2015 and the current application is submitted by a different applicant. According to the Interim Criteria, application for Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. Moreover, the Site (with available agricultural infrastructures such as road access and irrigation source) has potential for agricultural rehabilitation. There is no special circumstance to support the application.
- 12.5 There are 45 similar applications 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 **2d**). As stated in paragraph 7, 37 applications were approved mainly based on the consideration of complying with the Interim Criteria and another 3 applications were approved due to previous approved applications for the same use on the sites and no material change in the planning circumstances since then. The remaining 5 applications were rejected based on grounds of being not in line with the planning intention of the "AGR" zone, setting undesirable precedent, available land within "V" zone, and/or not complying with the Interim Criteria. Although the Site is the subject of a previous planning application (No. A/NE-KTS/314) for the same use approved in 2011 (the permission lapsed in 2015), the previous application was submitted by a different applicant.
- 12.6 There is a local objection as conveyed by DO(N). Of the 3 public comments received, 2 object to/raise concerns on the application in the aspects of environmental issue, living environment and planning intention of "AGR" zone. In this regard, relevant Government departments' comments and planning 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 local views and public comments mentioned in paragraphs 10.1 and 11, the PlanD does not support to 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" ("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.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 3.5.2023, 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**.

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 8.3.2019
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 Applications
Appendix V	Comments from Relevant Government Departments
Appendices VIa to VIc	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plans A-2a to A-2c	Site Plans
Plan A-2d	Estimated Amount of Land Available for Small House Development within the “V” Zone
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2019**