

RNTPC Paper No. A/NE-KTS/454
 For Consideration by the
 Rural and New Town Planning
 Committee on 23.6.2017

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/454

Applicant : Ms. IP Jennifer Jiang Gee

Site : Lots 493 S.A and 493 RP in D.D. 94, Hang Tau Tsuen, Kwu Tung South, Sheung Shui, New Territories

Site Area : 387.44 m²

Lease / Land Status : Block Government Lease (demised for agricultural use)

Plan : Draft Kwu Tung South Outline Zoning Plan No. S/NE-KTS/15

Zoning : "Agriculture" ("AGR")

Application : Proposed 2 Houses (New Territories Exempted Houses (NTEHs))

1. The Proposal

- 1.1 The applicant seeks planning permission to build 2 NTEHs on the application site (the Site) which falls within an area zoned "AGR" on the draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/15 (**Plan A-1**). According to the Notes for the "AGR" zone, the proposed NTEHs are Column 2 use, which requires planning permission from the Town Planning Board (the Board).
- 1.2 According to the submission, there is no vehicular access to the Site. The applicant indicates that the uncovered area of the Site will be used as garden. Layout of the proposed NTEHs is shown at **Drawings A-1 and A-2**. Parameters of the proposed development are as follows:

Site Area	:	387.44m ²
Plot Ratio	:	About 1.01
Total Gross Floor Area	:	390.18 m ²
No. of House	:	2
Footprint of Each House	:	65.03m ²
Site Coverage	:	About 33.6%
Building Height	:	3 storeys (8.23m)

- 1.3 In support of the application, the applicant has submitted the Application Form with attachments, which was received on 8.5.2017 (**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) there is shortage of available land in the “Village Type Development” (“V”) zone of Hang Tau Village;
- (b) the Site has been abandoned for more than 50 years. The applicant wishes to build Small Houses at the Site to prevent her land from occupation by farmers;
- (c) the applicant’s relatives are indigenous villagers who have the need to build Small Houses for self-use; and
- (d) there is similar approved and built Small House application in the vicinity of the Site (i.e. Lot 496 S.G in D.D. 94).

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. **Background**

The Site is currently not involved in any enforcement cases.

5. **Previous Application**

There is no previous application on the Site.

6. **Similar Application**

- 6.1 There are 2 similar applications (No. A/NE-KTS/236 and 237) for NTEH (not Small House) in the same “AGR” zone in the vicinity of the Site (**Plans A-1 and A-2**) which were rejected by the Rural and New Town Planning Committee (the Committee) in 2006 mainly on the grounds that the proposed development is not in line with the planning intention for the area; there is no strong planning justification in the submission for a departure from the planning intention; and the approval of the application would set an undesirable precedent for similar applications in the future, resulting in substantial cumulative adverse traffic impact in the area. Details of the similar application are summarized at **Appendix II** and their locations are shown on **Plans A-1 and A-2**.
- 6.2 In the applicant’s submission, an approved Small House application (application No. A/NE-KTS/255) at Lot 496 S.G (**Plan A-2**) is mentioned which was approved with conditions by the Committee in 2007. Notwithstanding, the concerned application is for a Small House development, but not for NTEH. Thus, it is considered not relevant to the subject application.

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

7.1 The Site is:

- (a) partly fenced and occupied by a plant nursery and a temporary single-storey structure for storage use;
- (b) about half of the Site is within the Village 'Environ' ('VE') of Hang Tau Village;
- (c) not accessible by vehicles.

7.2 The surrounding areas are predominantly rural in character and have the following characteristics:

- (a) to the east is track; and to the north, northeast and further east are plant nurseries and scattered domestic structures;
- (b) to the south are fallow agriculture land, temporary open storage of tyres and domestic structures; and
- (c) to the immediate west and northwest are fallow agriculture land; and to the further west and northwest are village houses of Hang Tau Village.

8. **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.

9. **Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Lots No. 493 S.A and 493 RP. The proposed NTEH on Lot No. 493 S.A falls partly within the 'VE' of Hang Tau Village but the other one on Lot No. 493 RP falls mostly outside the 'VE' of the said Village;
- (b) the Site is not covered by Modification of Tenancy/Building licence;
- (c) the Site is an Old Schedule Agricultural Lot held under the Block Government Lease; and
- (d) the proposed NTEH development on the Site is not acceptable from both

lease and land administration points of view.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) she has reservation on the application;
- (b) such type of development should be confined within the “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 the “V” zone, if permitted, will set an undesirable precedent case for similar application in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (c) notwithstanding the above, the application only involves two NTEHs. The application can be tolerated unless the application is rejected on other grounds.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small-scale, the proposed development unlikely causes major pollution; and
- (b) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person.

Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) he has no objection to the application from the landscape planning perspective;
- (b) the Site is located in an area of rural landscape character comprising mainly village type developments, some active farmlands and a few patches of woodland. The Site is at the periphery of Hang Tau Village surrounded by some active farmland at its north and east and the other adjoining areas are vacant and covered by wild grasses. The Site is in use as plant nursery where there is a small temporary structure and potted plants are kept at hard paved area. There are also a few young common trees of low landscape value found within the Site. Approvals were granted to a number of Small House developments in the vicinity of the Site within the “AGR” zone in the last few years. Thus the proposed NTEHs are not entirely incompatible with the surrounding landscape setting. Significant adverse impact on the existing landscape resource arising from the proposed development is not

anticipated; and

- (c) should approval to the application be given by the Board, he would recommend the inclusion of approval condition requiring the submission and implementation of landscape proposal.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in principle to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

Agriculture and Conservation

9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) he does not support the application from agriculture point of view;
- (b) some fruit trees and ornamental trees were growing at the Site. The Site should be retained for agricultural use.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application;
- (b) the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the Lands Department.

Water Supply

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside

services within the private lots to his department's standards.

District Officer's Comments

9.1.9 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) the Resident Representative of Hang Tau objected to the application mainly on the grounds that it is not suitable to develop Small House in Hang Tau Village since village roads are narrow. Traffic congestion issue should be addressed.
- (b) Other respondents, including the North District Committee and the two Indigenous Inhabitant Representatives of Hang Tau, have no comment on the application.

9.2 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 (New Territories East), Civil Engineering and Development Department (PM(NTE), CEDD).

10. Public Comments Received During Statutory Publication Period

On 16.5.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.6.2017, 5 comments were received (**Appendices IIIa to IIIe**). Amongst them, 2 comments are from members of general public expressing no comment on the application; and 3 comments are from Hong Kong Bird Watching Society, Designing Hong Kong and a member of general public who object to the application mainly on the following grounds:

- (a) the proposed NTEH development is not in line with the planning intention of the "AGR" zone;
- (b) village houses should be sited close to the village proper or confined to the "V" zone. It should not encroach upon the "AGR" zone. Approval of the application would set an undesirable precedent for future development within the "AGR" zone in the area;
- (c) this fallow agricultural land should be retained and rehabilitated under the new Agricultural Policy; and
- (d) there is cumulative effect of allowing residential developments to be built with no connection to proper sewerage system that would cause degradation of water resources and land.

11. Planning Considerations and Assessments

11.1 The application is for two NTEHs within the "AGR" zone which is intended 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. The proposed NTEH development is not in line with the planning intention of the "AGR" zone. DAFC does not support the application from agriculture point of view as some fruit trees and ornamental trees are growing at the Site and the Site should be retained for agricultural use. There is no strong planning justification in the submission for a departure from the planning intention.

- 11.2 The Site is located at an area predominantly rural in character with mainly village houses, fallow agricultural land and plant nurseries (**Plan A-2**). The village cluster of Hang Tau Village is located to the west of the Site. The proposed NTEHs are not entirely incompatible with the surrounding landscape setting. However, C for T has reservation on the application and considers that NTEH development should be confined within the "V" zone as far as possible. Approval of the application would set an undesirable precedent for similar applications within this "AGR" zone. The cumulative effect of approving such applications would lead to further extension of village development beyond the existing "V" zone boundary resulting in irreversibly further reduction of farmland and degradation of the agricultural environment of the "AGR" zone. Moreover, DLO/N also advises that the proposed NTEH development is not acceptable from both lease and land administration points of view. Other Government departments consulted, including CTP/UD&L, PlanD, CE/MN, DSD and DEP, have no adverse comment on or no objection to the application.
- 11.3 Two similar applications for proposed NTEH development (**Plans A-1 and A-2**) were rejected by the Committee in 2006 mainly on the grounds that the proposed development is not in line with the planning intention for the area; and approval of the application would set an undesirable precedent for similar applications. In the applicant's submission, an approved Small House application (application No. A/NE-KTS/255) at Lot 496 S.G (**Plan A-2**) is mentioned which is for a Small House development (**Plan A-2**), but not for NTEH (refers to paragraph 6.2). Thus, it is considered not relevant to the subject application.
- 11.4 There is a local objection as conveyed by DO(N). Five public comments are received during statutory public inspection period. Amongst them, 3 public comments object to the application mainly on the grounds of not in line with the planning intention of "AGR" zone, setting an undesirable precedent, retaining of agricultural land, as well as environmental and traffic impacts, as stated in paragraphs 9.1.9 and 10 above. In this regard, relevant government departments' comments and planning assessments as stated in paragraphs 11.1 and 11.2 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 "AGR" zone which is primary to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention; and

- (b) approval of the application would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would lead to further extension of village development beyond the existing "V" zone boundary resulting in irreversibly further reduction of farmland and degradation of the agricultural environment of the "AGR" zone.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 23.6.2021 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;
- (b) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (c) 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 IV**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicants.

14. Attachments

Appendix I	Application Form with Attachments received on 8.5.2017
Appendix II	Similar s.16 Applications for Proposed House (NTEH) within/partly within the Same "Agriculture" Zone in the vicinity of the Site
Appendices IIIa to IIIe	Public Comments
Appendix IV	Advisory Clauses
Drawings A-1 and A-2	Layout Plans

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photo

PLANNING DEPARTMENT
JUNE 2017

**Appendix II of RNTPC Paper
No. A/NE-KTS/454**

**Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH))
within/partly within the Same "Agriculture" Zone in the Vicinity of the Site**

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KTS/236	Proposed House (NTEH)	29.9.2006	R1 & R2
A/NE-KTS/237	Proposed House (NTEH)	29.9.2006	R1, R2 & R3

Rejection Reasons

- R1 The proposed development is not in line with the planning intention of the "Agriculture" zone in the Kwu Tung South area 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
- R2 The approval of the application would set an undesirable precedent for similar applications in the future, resulting in substantial cumulative adverse traffic impact in the area.
- R3 The proposed development was not in line with the planning intention of the "Village Type Development" zone which was to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone was primarily intended for development of Small Houses by indigenous villagers. There was no strong justification in the submission for a departure from the planning intention

Advisory Clauses

- (a) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works;
 - (b) to note the comments of the Director of Environmental Protection that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person;
 - (c) to note the comments of the Chief Engineer/Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards; and
 - (d) to note the comments of the Director of Fire Services to observe the 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal applications referred by the Lands Department.
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Extract of minutes of the RNTPC Meeting held on 23.6.2017

Agenda Item 37

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-KTS/454 Proposed 2 Houses (New Territories Exempted Houses) in
"Agriculture" Zone, Lots 493 S.A and 493 RP in D.D. 94, Hang Tau
Tsuen, Kwu Tung South, Sheung Shui, New Territories
(RNTPC Paper No. A/NE-KTS/454)

Presentation and Question Sessions

138. Ms S.H. Lam, STP/FSYLE, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed two houses (New Territories Exempted Houses (NTEHs));
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The District Lands Officer/North, Lands Department

(DLO/N, LandsD) commented that the proposed NTEH developments were not acceptable from both lease and land administration point of views. The Commissioner for Transport (C for T) had reservation on the application in that such type of development should be confined within the "Village Type Development" ("V") zone, but considered that the construction of two NTEHs could be tolerated. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site should be retained for agricultural use. Other concerned departments had no objection to or no adverse comment on the application;

- (d) during the first three weeks of the statutory publication period, five comments were received. While two comments indicated no comment on the application, three comments received from the Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual raised objection to the application. The District Officer (North) also conveyed that the Resident Representative of Hang Tau objected to the application on traffic grounds. Major objection grounds were set out in paragraphs 9 and 10 of the Paper; and
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- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. The proposed NTEH developments were not in line with the planning intention of the "Agriculture" ("AGR") zone and DAFC did not support the application. There was no strong planning justification given in the submission to justify for a departure from the planning intention. Though the proposed NTEH developments were not entirely incompatible with the surrounding areas, DLO/N and C for T did not support and had reservation on the application respectively. Approval of the application would set an undesirable precedent for similar applications within the "AGR" zone and the cumulative effect of which would lead to further extension of village development beyond the existing "V" zone. Regarding the adverse public comments, comments of concerned departments and the planning assessments above were relevant.

139. Members had no question on the application.

Deliberation Session

140. After deliberation, the Committee decided to reject the application. The reasons were :

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” (“AGR”) zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention; and
- (b) approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would lead to further extension of village development beyond the existing “Village Type Development” zone boundary resulting in irreversibly further reduction of farmland and degradation of the agricultural environment of the “AGR” zone.”

城市規劃委員會
香港北角渣華道三百三十三號
北角政府合署十五樓

ANNEX C

TOWN PLANNING BOARD
15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4835

By Registered Post

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/NE-KTS/454

14 July 2017

Ip Jennifer Jiang Gee

Dear Sir/Madam,

Proposed 2 Houses (New Territories Exempted Houses) in "Agriculture" Zone,
Lots 493 S.A and 493 RP in D.D. 94, Hang Tau Tsuen, Kwu Tung South, Sheung Shui

I refer to my letter to you dated 15.5.2017.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the proposed development is not in line with the planning intention of the "Agriculture" ("AGR") zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention; and
- (b) approval of the application would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would lead to further extension of village development beyond the existing "Village Type Development" zone boundary resulting in irreversibly further reduction of farmland and degradation of the agricultural environment of the "AGR" zone.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 23.6.2017, in both English and Chinese, are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 4.8.2017). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. S.H. Lam of Fanling, Sheung Shui & Yuen Long East District Planning Office at 2158 6138.

Yours faithfully,



(Miss Rachel HO)
for Secretary, Town Planning Board

(With Chinese Translation)

Advisory Clauses

- (a) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works;
- (b) to note the comments of the Director of Environmental Protection that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person;
- (c) to note the comments of the Chief Engineer/Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards; and
- (d) to note the comments of the Director of Fire Services to observe the 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal applications referred by the Lands Department.