

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

**APPLICATION NO. A/NE-KTS/496**

<b><u>Applicant</u></b>	: Crown Ace Limited
<b><u>Site</u></b>	: Lots 382 S.A, 382 S.B, 382 S.C, 382 S.D and 382 RP in D.D.94, Hang Tau, Sheung Shui, New Territories
<b><u>Site Area</u></b>	: 1,100 m <sup>2</sup> (about)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Draft Kwu Tung South Outline Zoning Plan No. S/NE-KTS/17
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”) (about 53% of the Site) “Village Type Development” (“V”) (about 47% of the Site)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Social Welfare Facility (Private Residential Care Home for Persons with Disabilities) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval for temporary social welfare facility (private residential care home for persons with disabilities) (RCHD) for a period of 3 years at the application site (the Site). The Site falls within an area partly zoned “AGR” and partly zoned “V” on the Draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/17 (**Plan A-1**). According to the Notes of the OZP, ‘Social Welfare Facility’ is a Column 2 use within the “V” zone which requires planning permission from the Town Planning Board (the Board). For the “AGR” zone, there is no provision for ‘Social Welfare Facility’. Nevertheless, temporary use not exceeding a period of three years requires planning permission from the Board notwithstanding that the use is not provided for in terms of the OZP. The Site is currently used for the applied use with valid planning permission.
- 1.2 The Site involves 3 previous planning applications for the same use submitted by the same applicant as the current application. The last application No. A/NE-KTS/458 was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years in 2018. The planning permission is valid until

20.7.2021 and all approval conditions relating to landscape, drainage and fire service installations (FSI) have been complied with.

- 1.3 According to the applicant's submission, the 3 existing houses on the Site for RCHD use are 3-storey (8.23m) in height with house footprint of 65.03 m<sup>2</sup> each and total gross floor area of about 585.27 m<sup>2</sup> for provision of 75 beds. It is for rehabilitation of disabled persons and ex-mentally ill persons. The site plan and floor plans are at **Drawings A-1 to A-4**.
- 1.4 The Site is accessible via a village road connecting Fan Kam Road (**Plan A-1**). An ingress/egress is at the eastern tip of the Site (**Plan A-2a**). It is estimated that the RCHD generates 1 vehicle trip/day arising from a small van. The RCHD operates everyday and the visiting hours are from 10 a.m. to 6 p.m. daily.
- 1.5 Compared with the last application No. A/NE-KTS/458, the current application is the same in terms of site area, site boundary, applied use, development parameters and layout.
- 1.6 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form received on 3.5.2021 with a Replacement Page received on 6.5.2021 (**Appendix I**)
  - (b) Justifications (**Appendix Ia**)
  - (c) Further Information (FI) of 7.6.2021<sup>#</sup> (**Appendix Ib**)
  - (d) FI of 9.6.2021<sup>#</sup> (**Appendix Ic**)

<sup>#</sup>*exempted from publication*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendices Ia, Ib and Ic**. They are summarized as follows:

- (a) The applicant have complied with all approval conditions under the previous planning permission relating to landscape, drainage and FSI. The use and layout of the development are the same as that of the previous application.
- (b) The Licence of Residential Care Home for Persons with Disabilities was issued by Social Welfare Department (SWD) to operate the RCHD in 2019.
- (c) The operation time of the RCHD is 24 hours daily. No complaint from the neighbourhood has been received since the operation of the RCHD from 2011. To prevent disturbance to the neighbourhood, the residents are usually accompanied by the staff or relatives when they leave the RCHD and the main gate is closed at all times. The resting time of the residents is at 9 p.m.. Visitors are advised to travel to/from the Site by public transport.

- (d) To ensure road safety, no vehicle, except small van, is allowed to and from the Site. The small van manoeuvres within the Site and does not reverse onto the village track. The driver is advised to drive slowly along the village track.
- (e) The existing water mains within the Site will be protected. All trees and shrubs are maintained regularly. The existing drainage facilities will be maintained at all times and rectified if found inadequate or ineffective. Rain and storm water are drained away properly.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not the “current land owner” of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from the current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Uses or Development (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

### **5. Background**

The Site is not subject to any active enforcement action.

## **6. Previous Applications**

- 6.1 The Site involves 4 previous applications all approved with conditions by the Committee. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plans A-1 and A-2b**.
- 6.2 Application No. A/NE-KTS/146 covering a small portion of the Site for a proposed house (New Territories Exempted House (NTEH) – Small House) was approved in 2001. The NTEH is one of the three existing houses in this application.
- 6.3 The whole site is the subject of 3 planning applications No. A/NE-KTS/344, 406 and 458 for the same use submitted by the same applicant as the current application. The former 2 applications were approved in 2013 and 2015 respectively mainly on the considerations that it could provide residential care home services to person with disabilities despite being not entirely in line with the planning intention of the “AGR” and “V” zones; the use was not incompatible with the surrounding areas; and no significant adverse traffic, environmental, drainage, sewerage, fire safety and landscape impacts on the surrounding areas were anticipated. The 2 planning permissions were subsequently revoked in 2015 and 2018 respectively due to non-compliance with the approval conditions on the implementation of the proposals of emergency vehicular access arrangement, water supplies for fire fighting and FSI. The last application was approved in 2018 on similar considerations. All approval conditions have been complied with and the planning permission is valid until 20.7.2021. Compared with the last application No. A/NE-KTS/458, the current application is the same in terms of applicant, use, site boundary and layout.

## **7. Similar Application**

There is no similar application for social welfare facility (RCHD) within the same “AGR” zone, however, there is a similar planning application No. A/NE-KTS/446 within the same “V” zone in the vicinity of the Site. The application was approved with conditions by the Committee in 2017 mainly on the considerations that it could provide residential care home services to person with disabilities despite being not entirely in line with the planning intention of the “V” zone; the use was not incompatible with the surrounding developments; and no significant adverse traffic, environmental, drainage, sewerage, fire safety and landscape impacts on the surrounding area were anticipated. Details of the application is summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) fenced off and occupied by three 3-storey houses which are currently used for the applied use, known as Comfort Rehabilitation Home (Hang Tau Branch), with

valid planning permission; and

- (b) accessible by a village road connecting Fan Kam Road, and a footpath at its eastern side connecting a village road leading to Hang Tau Road.

8.2 The surrounding areas are predominantly rural in nature with the following characteristics:

- (a) immediately surrounded by orchard and active and fallow agricultural land;
- (b) to the further north and west within “V” zone are mainly village houses; and
- (c) to the further east and south within “AGR” zone are mainly active and fallow agricultural land, plant nursery and scattered with domestic structures.

## **9. Planning Intention**

9.1 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.

9.2 The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

## **10. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) the lots are Old Schedule Lots held under Block Government Lease (demised for agricultural use) without any guarantee of right of access. The lots are surrounded by other private lots. The applicant should make

its own arrangement for acquiring access to the Site. There is no guarantee that any adjoining Government land will be allowed for the vehicular access to the Site for the applied use; and

- (b) the existing 3 NTEHs on lots 382 S.B, 382 S.C and 382 S.D are covered by Building Licences No. 73/2002, 57/98 and 22/2004 respectively. The said 3 NTEHs shall not be used for any purposes other than non-industrial purposes. According to the said Building Licences, each NTEH shall not have a roofed-over area exceeding 65.03m<sup>2</sup> and not more than three storeys nor exceeding a height of 8.23m.

### **Traffic**

#### 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he considers the application tolerable; and
- (b) the vehicular access to the Site is via a village track connecting Fan Kam Road. The village track is not under his department's management. The applicant should check the land status of the access with the lands authority, and clarify its management and maintenance responsibilities with the relevant lands and maintenance authorities accordingly.

### **Social Welfare**

#### 10.1.3 Comments of the Director of Social Welfare (DSW):

the RCHD is in operation with a licence under the Residential Care Homes (Persons with Disabilities) Ordinance, Cap. 613. He has no comment on the application from licensing perspective.

### **Environment**

#### 10.1.4 Comments of the Director of Environmental Protection (DEP):

in view of the nature and scale of the social welfare facility, it will unlikely cause major pollution;

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

he has no comment on the application from the sewerage operation and maintenance point of view. The Site is within an area where no public sewerage connection is available in the vicinity.

### **Landscape**

#### 10.1.6 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) referring to the aerial photo in 2020, the Site is situated in an area of rural landscape character, comprising of some villages, farmland and tree groups as well as Fanling Golf Course. The applied use is not incompatible with the landscape character of the surrounding area;
- (c) with reference to the applicant's submission and PlanD's site photos taken in May 2021, the Site is currently occupied by 3 blocks of 3-storey houses with numbers of existing trees and shrubs planting within the Site. The existing landscape treatments implemented for the previous application were in fair condition. In view that there is no major change to the layout, significant changes or impact to the landscape character and existing landscape resources arising from the continual use of the development is not anticipated; and
- (d) his advisory comments are at **Appendix V**.

### **Drainage**

#### 10.1.7 Comments of CE/MN, DSD:

- (a) he has no comment on the application from the public drainage point of view; and
- (b) the applicant is reminded to maintain the drainage works properly and rectify the drainage system if it is found to be inadequate/ineffective during operation. Should the application be approved by the Board, the applicant is requested to submit a condition record of the existing drainage facilities on site to ensure that the proposed land use will not cause adverse drainage impact to the adjacent area.

### **Agriculture and Nature Conservation**

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

considering that the previous applications for the same use as the current application were approved by the Board, he has no strong view on the application for renewal of planning approval.

### **Fire Safety**

#### 10.1.9. Comments of the Director of Fire Services (D of FS):

he has no objection in principle to the renewal application subject to the existing FSI implemented on the Site being maintained in efficient working order at all times.

### **District Officer's Comments**

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

- (a) he has consulted the locals from 24.5.2021 to 8.6.2021; and
- (b) the North District Council (NDC) member of the subject Constituency supports the application. The Sheung Shui District Rural Committee (SSDRC), two Indigenous Inhabitant Representatives (IIRs) of Hang Tau, the Resident Representative (RR) of Hang Tau and the Chairman of Fung Shui Area Committee have no comment.

#### 10.2 The following Government departments have no comment on/no objection to the application:

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) (Advisory comments in **Appendix V**);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) (Advisory comments in **Appendix V**);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD ); and
- (e) Commissioner of Police (C of P).

## **11. Public Comment Received During Statutory Publication Period**

On 11.5.2021, the application was published for public inspection. During the three-week statutory publication period, one comment from an individual was received (**Appendix IV**) indicating no comment.

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

12.1 The application is for renewal of planning approval for temporary social welfare facility (RCHD) for a period of 3 years on the Site with 3 existing NTEHs. All approval conditions of the previous application have been complied with and the planning



permission is valid until 20.7.2021. The Site falls partly within “AGR” zone and partly within “V” zone. Although the applied use is not in line with the planning intention of the “AGR” and “V” zones, DAFC has no strong view on the application and the applied development in operation within the existing NTEHs on the Site could provide residential care home services to person with disabilities.

- 12.2 The residential nature of the RCHD within the existing NTEHs is not incompatible with the surrounding developments which are predominantly rural in nature with village houses, domestic structures, and active and fallow agricultural land in the vicinity. SWD has advised that the RCHD in the Site is in operation with a licence under the Residential Care Homes (Persons with Disabilities) Ordinance, Cap. 613.
- 12.3 The renewal application is in line with TPB PG-No. 34C in that there has been no material change in planning circumstances since granting of the last approval under application No. A/NE-KTS/458; all the time-limited approval conditions under the last application have been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 Relevant departments consulted including C for T, DEP, CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no adverse comment on the application. The technical requirements suggested by D of FS and CE/MN of DSD are recommended in paragraph 13.2 below.
- 12.5 Given that 3 previous approvals for the same use had been granted to the Site, approval of the current application is in line with the Committee’s previous decisions.
- 12.6 There are local views conveyed by DO(N) and one public comment as stated in paragraphs 10.1.10 and 11 supporting the application or indicating no comment.

### **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 comment in paragraphs 10.1.10 and 11, the Planning Department has no objection to the application for renewal of planning approval for temporary social welfare facility (RCHD) for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years and be renewed from 21.7.2021 to 20.7.2024. The following approval conditions and advisory clauses are also suggested for Members’ reference:

#### **Approval Conditions**

- (a) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;

- (b) the existing drainage facilities on the Site shall be maintained and rectified if found inadequate/ineffective during operation at all time during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **21.10.2021**;
- (d) if any of the above planning conditions (a) or (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (e) if the above planning condition (c) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intention of "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) the applied use is not in line with the planning intention of the "Village Type Development" zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal of the planning approval.
- 14.2 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 period of which the permission should be valid on a temporary basis.

14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**15. Attachments**

<b>Appendix I</b>	Application Form received on 3.5.2021 with a Replacement Page received on 6.5.2021
<b>Appendix Ia</b>	Justifications
<b>Appendix Ib</b>	FI of 7.6.2021
<b>Appendix Ic</b>	FI of 9.6.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Application
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawings A-1 to A-4</b>	Site Plan and Floor Plans
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a and A-2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2021**