

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/513

<u>Applicant</u>	: Mr. HAU Ho Yin represented by T.H. & Associates Limited
<u>Site</u>	: Lot 1294 S.B in D.D. 92, Kam Tsin Village, Sheung Shui, New Territories
<u>Site Area</u>	: 151.87m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/18
<u>Zonings</u>	: “Agriculture” (“AGR”) (about 48.4%) “Village Type Development” (“V”) (about 51.6%)
<u>Application</u>	: 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 Kam Tsin Village, seeks planning permission to build a house (NTEH – Small House) on the application site (the Site) in Kam Tsin Village, Sheung Shui. The Site is partly zoned “AGR” (about 48.4%) and partly zoned “V” (about 51.6%) on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/18 (**Plans A-1 and A-2a**). According to the Notes of the OZP, the proposed ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH)’ in the “AGR” zone requires planning permission from the Town Planning Board (the Board) while it is always permitted in the “V” zone. The Site is currently vacant and covered with weeds (**Plan A-4**).

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

- 1.2 The Site was granted with planning permission in 2014 under application No. A/NE-KTS/370 submitted by the same applicant for proposed House (NTEH – Small House). The planning permission lapsed on 8.8.2022.
- 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. Layout of the proposed Small House development (showing the location of the proposed septic tank) is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following document:
 - (a) Application Form with Plans received on 14.7.2022 (Appendix I)
 - (b) Further Information received on 29.8.2022 (Appendix Ia)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia** summarised as follows:

- (a) The applicant is an indigenous villager of Kam Tsin Village and he wishes to erect a Small House at the Site.
- (b) Land supply within the “V” zone of Kam Tsin Village is very limited and there is a high demand of Small Houses. It is nearly impossible to purchase land of which the entire footprint of the proposed Small House falls within the “V” zone.
- (c) About 63% of the proposed Small House footprint (40.81m²) falls within the “V” zone.
- (d) The proposed development is considered compatible with the rural environment and would not be visually intrusive to the surrounding areas.
- (e) The proposed development would not cause any adverse environmental and traffic impact to the surrounding areas. No tree felling is required.
- (f) A surface water drain is available to the immediate southeast of the Site.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to any active planning enforcement action.

5. **Assessment Criteria**

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

6. **Previous Application**

The Site is the subject of a previous application (No. A/NE-KTS/370) for a proposed House (NTEH – Small House) submitted by the same applicant and was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2014. In 2018, the validity of the planning permission was extended for 4 years. The planning permission lapsed on 8.8.2022². Compared with the previous application, major development parameters and the Small House footprint are generally the same. Details of the previous application is summarized at **Appendix III** and its location is shown on **Plan A-2a**.

7. **Similar Applications**

There have been 2 similar applications (No. A/NE-KTS/238 and A/NE-KTS/239) for Small House development partly within the same “AGR” zone of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Both applications were approved with conditions, on consideration that the proposed developments complied with the Interim Criteria; and they were generally compatible with the surrounding land uses and would unlikely cause any environmental, traffic and drainage impacts. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1 and A-2a**.

8. **The Site and Its Surrounding Areas** (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently vacant and covered with weeds;
- (b) located to the southeast of the village cluster of Kam Tsin Village, falling entirely outside the village ‘environs’ (‘VE’); and

² According to DLO/N, LandsD, a Small House application submitted by the same applicant made on 13.5.2013 is being processed.

- (c) accessible via a local track.

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

- (a) to the immediate east and south is an open drain (**Plan A-4**) and to the further east is Hong Kong Golf Club;
- (b) to the immediate southwest, west and north are domestic structures; and
- (c) to the further south, west and north are village houses, domestic structures, vehicle parks and active agricultural land within the “V” zone of Kam Tsin 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 applications have been assessed against the assessment criteria set out in the Interim Criteria (**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? - Footprints of the proposed Small House - Sites	63% 51.6%	- -	The Site and the footprint of the proposed Small Houses partly fall within “AGR” zone.
2.	Within ‘VE’? - Footprints of the proposed Small Houses - The Site	- -	100% 100%	The District Lands Officer/North, Lands Department (DLO/N, LandsD) has advised that the Sites fall outside the ‘VE’ of Kam Tsin.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<ul style="list-style-type: none"> - Land required to meet Small House demand in Kam Tsin Village: about 16ha (equivalent to about 642 Small House sites). The outstanding Small House applications for Kam Tsin are 42³ while the 10-year Small House demand forecast for the village is about 600. - Land available to meet the Small House demand within the “V” zones in Kam Tsin Village: about 3.5ha (equivalent to about 139 Small House sites).
	Sufficient land in “V” zone to meet outstanding Small House applications? (Plan A-2b)	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as greenhouse, plant nursery, etc.
5.	Compatible with surrounding area/ development?	✓		The surrounding area is predominantly rural in nature with village houses and active and fallow agricultural land.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

³ Among the 42 outstanding Small House applications, 41 of them fall within the “V” zones, and 1 straddle or outside the “V” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no 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) considers that the application could be tolerated on traffic ground.
10.	Drainage impact?	✓		The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises 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 development, the application alone are unlikely to cause major pollution. - Septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective. - The Site is situated in an area of rural landscape character, comprising of village houses, farmlands, golf course and tree groups. The site is vacant and there is no significant sensitive landscape resource observed within the Site. Hence,

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				significant adverse landscape impact arising from the application is not anticipated.
13.	Local objections conveyed by District Officer (North) (DO(N))?		✓	The North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representative (IIR) of Kam Tsin and the Resident Representative (RR) of Kam Tsin support the application while the Chairman of the Sheung Shui District Rural Committee (SSDRC) has no comment.

10.2 Comments of 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) C for T
- (c) CE/MN, DSD
- (d) DEP
- (e) DAFC
- (f) CTP/UD&L, PlanD
- (g) D of FS
- (h) DO(N), Home Affairs Department

10.3 The following government departments have no objection to/no comment on the applications:

- (a) Chief Engineer/Construction, Water Supplies Department
- (b) Chief Highway Engineer/New Territories East, Highways Department
- (c) Project Manager (North), Civil Engineering and Development Department
- (d) Commissioner of Police

11. **Public Comments Received During Statutory Publication Period**

The application was published for public inspection. During the statutory publication period, 2 public comments were received, including an individual offering no comment and 1 objecting comment from another individual (**Appendix VI**). The grounds of objection are that houses are over-concentrated resulting in traffic congestion, environmental pollution, increased fire risk and adverse impacts on ecology, safety and living quality.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed NTEH (Small House) at the Site which is partly within the “AGR” zone (about 48.4%) and partly within the “V” zone (about 51.6%). 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 pond for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural point of view as agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouse, plant nursery, etc. and possesses potential for agricultural rehabilitation.
- 12.2 The Site was granted planning permission for Small House development in 2014 under planning application No. A/NE-KTS/370, but the planning permission lapsed on 8.8.2022. According to DLO/N, LandsD, the application for Small House grant on the Site is being processed. The current application is submitted by the same applicant for the same use as the previously approved one.
- 12.3 The Site is currently vacant. It is located close to the village cluster of Kam Tsin Village. The proposed development is not incompatible with the surrounding environment which is rural in nature with village houses and active/fallow agricultural land. CTP/UD&L, PlanD has no objection to the application as significant adverse landscape impact arising from the proposed development is not anticipated. Significant adverse environmental and drainage impacts on the surrounding areas arising from the proposed house are also not anticipated. DEP advises that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage. DEP and CE/MN, DSD have no objection to the application. C for T considers the application could be tolerated on traffic ground.
- 12.4 Regarding the Interim Criteria (**Appendix II**), 100% of the footprint of the proposed Small House falls outside the ‘VE’ of Kam Tsin Village (**Plan A-1**). According to DLO/N, LandsD, the total number of outstanding Small House applications for Kam Tsin Village is 42. As provided by the IIR of Kam Tsin Village, the 10-year Small House demand forecast for the Village is about 600. Based on the latest estimate by PlanD, about 3.5 ha (or equivalent to about 139 Small House sites) of land is available within the “V” zone of Kam Tsin Village (**Plan A-2b**). There is sufficient land available within the “V” zones to meet the outstanding Small House applications though it cannot fully meet the 10-year Small House demand. 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, as mentioned above, the Site is subject to previous planning permission and the Small House grant application on the Site is being processed by DLO/N, LandsD. There has been no material change in the planning circumstances in the area since granting of previous planning permission. In view of the above, sympathetic consideration may be given to the application in accordance with the Interim Criteria.

- 12.5 There are 2 similar applications in the vicinity of the Site (**Plan A-1**) approved by the Committee, as stated in paragraph 7.
- 12.6 There are 2 public comments as stated in paragraph 11. In this regards, the relevant departmental comments as well as planning considerations and assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.9.2026, 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 approval condition and advisory clauses are also suggested for Members' reference:

Approval condition

The submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix VII**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
 - (a) the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and

- (b) land is still available within the “V” zone of Kam Tsin 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 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 14.7.2022
Appendix Ia	Further Information received on 29.8.2022
Appendix II	Extract of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Comments from Relevant Government Departments
Appendix VI	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	Estimated Amount of Land Available for Small House Development within the “V” Zone
Plan A-3	Aerial Photo
Plan A-4	Site Photos