

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/534

Applicant : Mr. LIU King Yung represented by T.H. & Associates Limited

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 (OZP) No. S/NE-KTS/20
(currently in force)

Draft Kwu Tung South OZP No. S/NE-KTS/19 (at the time of submission)

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, Sheung Shui. The Site falls within an “AGR” zone on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/20 (**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 permitted under the covering Notes)’ is a Column 2 use in “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is vacant, partly covered by debris and partly covered by grass (**Plans A-4a and A-4b**).

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 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	: 195.09m ²
Number of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m ²

1.3 Layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as private garden area. There is no vehicular access to the Site.

1.4 The Site is the subject of three previous applications. The first application No. A/NE-KTS/314 for a proposed house (NTEH – Small House) submitted by another applicant was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2011. The planning permission lapsed in 2015. In 2019, applications No. A/NE-KTS/468 and A/NE-KTS/476 for the same Small House development submitted by the same applicant of the current application were rejected by the Committee on 3.5.2019 and 6.9.2019 respectively (see details under paragraph 6 below).

1.5 In support of the application, the applicant has submitted the following documents:

Application Form with plans received on 13.3.2024 (Appendix I)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I** and are summarized as follows:

- (a) The applicant is an indigenous villager of Sheung Shui Heung/Sheung Shui Wai and wishes to construct a Small House.
- (b) The Site falls entirely within the Village ‘Environs’ (‘VE’) of Hang Tau and is near “V” zone. Since owners of land within the “V” zone are unwilling to sell their land, it is impossible to purchase a piece of land to enable the footprint of the proposed Small House entirely inside the “V” zone.
- (c) The proposed Small House is compatible with the surrounding rural environment. No tree felling or land filling would be required. The proposed Small House would not cause any adverse traffic impacts to the area.
- (d) There is no stream courses or ditches in the vicinity of the Site. The Site had not been used for cultivation for years. Agricultural rehabilitation at the Site is impossible.
- (e) There was a previous planning permission granted for the Site.

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

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

4. **Assessment Criteria**

The set of Interim Criteria for Consideration of Application for 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**.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is the subject of three previous applications No. A/NE-KTS/314, 468 and 476 for Small House development. Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/NE-KTS/314 submitted by another applicant was approved with conditions on 19.8.2011 (i.e. before the formal adoption of a more cautious approach by the Board since 14.8.2015²) mainly on the considerations that the proposed Small House complied with the Interim Criteria in that its 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 “V” zone of Hang Tau at the time of consideration; the application site was located close to Hang Tau with similar approved applications in the vicinity; the proposed Small House was not incompatible with the surrounding land uses; and there would be no significant adverse traffic, environment, drainage and landscape impacts to the surrounding areas. The planning permission was however lapsed in 2015.
- 6.3 Applications No. A/NE-KTS/468 and A/NE-KTS/476 submitted by the same applicant of the current application were rejected on 3.5.2019 and 6.9.2019 respectively mainly for the reasons that the proposed Small Houses were not in line with the planning intention of the “AGR” zone; land was still available within the “V” zone of Hang Tau which was primarily intended for Small House development; and that it was 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.

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

7. Similar Applications

- 7.1 There are 26 similar applications for Small House development within/partly within the same “AGR” zone in the vicinity of the Site in Hang Tau since the first promulgation of the Interim Criteria on 24.11.2000.
- 7.2 A total of 23 applications involving 17 sites were considered by the Committee before the Board’s formal adoption of a more cautious approach approved in August 2015. 21 of the applications (No. A/NE-KTS/135, 136, 138-144, 146, 209-213, 255, 279, 280, 329, 330 and 358) were approved between 2001 and 2014 mainly on the 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 there was not sufficient land within the “V” zone to satisfy the Small House demand. The remaining two applications (No. A/NE-KTS/368 and 388) were rejected in 2014 mainly for reasons that the applications did not comply with the Interim Criteria in that more than 50% of the site and/or the footprint of the proposed Small House fell outside both the ‘VE’ and “V” zone and land was still available within the “V” zone; the proposed Small Houses were not in line with the planning intention of the “AGR” zone; and approvals of the applications would set undesirable precedent causing cumulative adverse traffic and landscape impacts to the area.
- 7.3 Three applications were approved by the Committee after the formal adoption of the more cautious approach by the Board in 2015. Two of the applications (No. A/NE-KTS/444 and 445) were approved in 2017 mainly on the consideration that the sites were the subject of previously approved planning applications (No. A/NE-KTS/329 and 330 respectively) submitted by the same applicants for the same use. The remaining application (No. A/NE-KTS/479) was approved by the Committee in 2020 mainly on sympathetic consideration that the application site was an infill site enclosed by existing Small Houses; the proposed Small House was not incompatible with the surrounding land uses; and no adverse impacts to the surrounding areas would be anticipated.
- 7.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-2a**.

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

- 8.1 The Site is:
- (a) generally flat, vacant, partly covered by debris and partly covered by grass;
 - (b) located to the immediate east of the village cluster of Hang Tau and falls entirely within the ‘VE’ of Hang Tau; and

- (c) accessible via a footpath to the west of the Site. There is no vehicular access to the Site. 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. To the further north, northeast and east as well as south are mainly plant nursery, fallow agricultural/vacant land and scattered domestic structures; and
- (b) to the southwest and west are the village cluster of Hang Tau and active agricultural land.

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 of the Interim Criteria detailed 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? - The Site - Footprint of the proposed Small House	- -	100% 100%	- The Site and the footprint of the proposed Small House falls wholly within “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Site falls entirely within the ‘VE’ of Hang Tau.

	<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 application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required for meeting Small House demand in Hang Tau: about 81.2 ha (equivalent to about 3,249 Small House sites). The outstanding Small House applications for Hang Tau are 49 ³ while the 10-year Small House demand forecast for the village is between 2,900 and 3,200. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Hang Tau: about 3.95 ha (equivalent to about 158 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications? (Plan A-2b)	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective. The Site falls within “AGR” zone and is generally abandoned and occupied by some wastes. The agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that the Site is situated in an area of rural inland plain landscape character comprising village houses, farmlands, vacant lands and clusters of trees.

³ Among the 49 outstanding Small House applications, 26 of them fall within the “V” zone, and 23 straddle or outside the “V” zone including two sites with valid planning approvals from the Committee.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within Water Gathering Grounds (WGGs)?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no objection to the application provided that the proposed Small House would not encroach on any EVA or planned EVA. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) advises that Small House development should be confined within “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 “V” zone, if permitted, will set an undesirable precedent for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the application only involves construction of one Small House can be tolerated on traffic grounds.
10.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - Director of Environmental Protection (DEP) advises that in view of the small-scale nature of the proposed development, the application alone is unlikely to cause major pollution. - Septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> - CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective. - The Site is vacant covered with debris and self-seeded vegetation. No landscape resources of high sensitivity are observed within the Site. Significant adverse landscape impact within the Site arising from the proposed development is not anticipated.
13.	Local objections conveyed by District Officer (North) (DO(N))?		✓	<ul style="list-style-type: none"> - District Officer (North), Home Affairs Department (DO(N), HAD) advises that two members of North District Council (NDC) support the application. The Chairman of the Sheung Shui District Rural Committee (SSDRC), two Indigenous Inhabitant Representatives (IIRs), the Resident Representative (RR) of Hang Tau and seven members of the NDC have no comment on the application. 14 members of the NDC did not reply by deadline.

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) C for T;
- (c) DEP;
- (d) CE/MN, DSD;
- (e) CE/C, WSD;

- (f) CTP/UD&L, PlanD; and
- (g) D of FS.

10.3 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North Development Office), Civil Engineering and Development Department (PM(NDO), CEDD); and
- (c) Commissioner for Police (C for P).

11. Public Comments Received During Statutory Publication Period

On 19.3.2024, the application was published for public inspection. During the statutory public inspection period, four public comments from individuals were received (including one from a local villager). One individual supports the application. The remaining three individuals (including the local villager) object to the application mainly on the grounds that (i) the existing drainage system cannot accommodate the proposed Small House as there is flooding at the Site during rainy season; (ii) the building of Small House does not induce any benefits to the neighbours; and (iii) land within the “V” zone is sufficient to meet the outstanding Small House applications.

12. Planning Considerations and Assessments

- 12.1 The application is for a NTEH (Small House) at the Site 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 water source are available and the Site can be used for agricultural activities and possesses potential for agricultural rehabilitation. No strong planning justification is provided in the application for a departure from the planning intention.
- 12.2 The Site is located entirely within the ‘VE’ of Hang Tau and is partly covered by debris and partly covered by grass. The proposed NTEH (Small House) is not incompatible with the surrounding areas which are rural in character comprising village houses, farmlands, vacant lands and clusters of trees. CTP/UD&L, PlanD has no objection to the application from landscape planning perspective as significant landscape impact within the Site arising from the proposed development is not anticipated. Besides, DEP, CE/MN, DSD and D of FS has no objection to the application. C for T considers that the application could be tolerated given that the application involving one Small House only.

- 12.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/N, LandsD, the number of outstanding Small House applications for Hang Tau is 49, while the 10-year Small House demand forecast is between 2,900 and 3,200. Based on the latest estimate by PlanD, about 3.95 ha of land (equivalent to about 158 Small House sites) is available within the “V” zone of Hang Tau (**Plan A-2b**). While the amount of land available within the “V” zone is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among others, in considering whether there is a general shortage of land in meeting Small House demand, the Board puts more weighting on the number of outstanding Small House applications as provided by LandsD. 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.
- 12.4 Application No. A/NE-KTS/314 for the same proposed use at the Site was approved by the Committee in 2011 before the formal adoption of a more cautious approach by the Board largely on the considerations that the proposed Small House complied with the Interim Criteria in that its 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 “V” zone of Hang Tau at the time of consideration. After the formal adoption of the more cautious approach by the Board, two applications (No. A/NE-KTS/468 and 476) for the same proposed use at the Site were rejected by the Committee in 2019 mainly for the reasons that the proposed Small Houses were not in line with the planning intention of the “AGR” zone; land was still available within the “V” zone of Hang Tau which was primarily intended for Small House development; and it was 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. The planning circumstances for rejecting these two latest previous applications are applicable to the current application.
- 12.5 There are 26 approved similar applications for Small House development within/partly within the same “AGR” zone in the vicinity of the Site. Among them, 21 applications were approved and two applications were rejected by the Committee between 2001 and 2014 before the formal adoption of the more cautious approach by the Board. After the formal adoption of the more cautious approach by the Board, only three applications were approved by the Committee between 2017 and 2020. Two of them (application No. A/NE-KTS/444 and 445) were approved mainly on the consideration that the sites were the subject of previous approved applications for the same use, while the remaining application (No. A/NE-KTS/479) was approved on sympathetic considerations that, amongst others, the site was an infill site enclosed by Small Houses. As the Site of current application is neither subject of a previous application approved after the formal adoption of the more cautious approach by the Board nor an infill site among existing Small Houses and the amount of land available within the concerned “V”

zone is sufficient to accommodate the outstanding Small House applications, the planning circumstances of the current application are different from the approved similar applications.

- 12.6 Regarding the three objecting public comments received during the statutory public inspection period of the application detailed under paragraph 11, the planning assessments and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made under paragraph 12 and having taken into account the public comments mentioned under paragraph 11, the PlanD does not support 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 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 10.5.2028, 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 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 13.3.2024
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended 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-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MAY 2024**