

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/554

- Applicant** : Mr. LEE Pak Yin represented by Access Consulting Limited
- Site** : Lot 911 S.A ss.5 in D.D.100, Hang Tau, Kwu Tung South, Sheung Shui, New Territories
- Site Area** : 204.7m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/22
(*currently in force*)
- Draft Kwu Tung South OZP No. S/NE-KTS/21
(*at the time of submission*)
- [The zoning and development restrictions of the application site remain unchanged on OZP No. S/NE-KTS/22]
- 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 Hang Tau seeks planning permission to build a house (NTEH - Small House) on the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plans A-1a and A-2a**). According to the Notes of the OZP for the “AGR” zone, ‘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 which requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved, partly fenced-off and occupied by a container structure and

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.

vehicle parking (**Plans A-3 to A-4**).

1.2 Details of the proposed Small House are as follows:

Total Floor Area : 195.09m²
Number of Storeys : 3
Building Height : 8.23m
Roofed Over Area : 65.03m²

1.3 The Site is accessible via a footpath which connects a village road leading to Hang Tau Road. The applicant indicates that the uncovered area of the Site would be used as garden area. A septic tank will be provided to serve the proposed Small House. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form with attachments received on 18.2.2025 (**Appendix I**)
- (b) Further Information (FI) received on 21.3.2025* (**Appendix Ia**)

** accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The applicant is an indigenous villager in the New Territories and he has only one chance in his lifetime to apply for construction of a Small House to meet his housing need.
- (b) The Site falls within a low-density area with good air ventilation. In view of close proximity to open space and access road, the Site is suitable for Small House development.
- (c) The applicant will follow the standards for provision of typical drainage and sewerage facilities for NTEHs/Small Houses.

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 promulgated on 7.9.2007 is at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Application

There is no previous planning application involving the Site.

7. Similar Applications

7.1 There are 20 similar applications for Small House development falling entirely/partly within the same “AGR” zone in the vicinity of the Site in Hang Tau since the first promulgation of the Interim Criteria in 2000. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1b**.

Approved Applications

7.2 Amongst the 20 similar applications, 16 applications (No. A/NE-KTS/137, 147, 148 149, 152, 158, 159, 160, 161, 190, 252, 259, 281, 289, 300 and 360) involving 14 sites were approved by the Committee between 2001 and 2014 (i.e. before the formal adoption of a more cautious approach by the Board since August 2015²) mainly on the considerations that the application complied with the Interim Criteria in that the entire footprint of the proposed Small House fell within the village ‘environs’ (‘VE’); there was not sufficient land within the “V” zone to satisfy the Small House demand; and previous approval was given to the same use submitted by the same applicant and there is no material change in the planning circumstances in the area since the previous approval (No. A/NE-KTS/281 and 360).

7.3 One application (No. A/NE-KTS/456) was approved by the Committee in 2018 mainly on sympathetic considerations that previous approval was given to the same use submitted by the same applicant and there is no material change in the planning circumstances in the area since the previous approval.

Rejected Applications

7.4 One application (No. A/NE-KTS/402) was rejected by the Committee in July 2015 mainly on the grounds that the application did not comply with the Interim Criteria

² Amongst 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.

in that more than 50% of the footprints of the proposed Small Houses fell outside both the ‘VE’ and “V” zone; 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 approval of the application would set undesirable precedent causing cumulative adverse traffic and landscape impacts to the area.

- 7.5 The remaining two applications (No. A/NE-KTS/443 and 447) were rejected by the Board upon review in 2017 mainly on the grounds that land was still available within the “V” zone and the proposed Small House was not in line with the planning intention of the “AGR” zone.
- 7.6 Application No. A/NE-KTS/552 for proposed house (NTEH)-Small House within the same “AGR” zone on the OZP will be considered at the same meeting (**Plan A-1a**).

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

8.1 The Site is:

- (a) accessible via a footpath which connects a village road leading to Hang Tau Road;
- (b) hard-paved, partly occupied by a container structure and partly by vehicle parking; and
- (c) located to the southwest of the village cluster of Hang Tau and falls entirely within the ‘VE’ of Hang Tau (**Plan A-2a**).

8.2 The surrounding areas are occupied mainly by village houses of Hang Tau, residential/temporary structures, vehicle parking, fallow agricultural land, vacant land and tree groups.

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? - Footprint of the proposed Small House - Site	- -	100% 100%	- The Site and the footprint of the proposed Small House falls entirely within an area zoned “AGR” (Plan A-1a).
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	- DLO/N, LandsD has advised that the Site falls entirely within the ‘VE’ of Hang Tau (Plan A-1a).
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 80.9 ha (equivalent to about 3,236 Small House sites). The outstanding Small House applications for Hang Tau are 36 ³ while the 10-year Small House demand forecast for the village is between 2,900 and 3,200.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Hang Tau: about 3.96 ha (equivalent to about 158 Small House sites) (Plan A-2b).

³ Amongst the 36 outstanding Small House applications, 25 of them fall within the “V” zone, and 11 of them straddle or fall outside the “V” zone without valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 vacant with some structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also 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?	✓		- The proposed Small House is not incompatible with the surrounding areas which are occupied mainly by village houses of Hang Tau, residential/temporary structures, vehicle parking, fallow agricultural land, vacant land and tree groups (Plans A-2a and A-3).
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 in principle to the application provided that the proposed Small House would not encroach on any existing EVA or planned EVA. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - Commissioner for Transport (C for T) has no objection to the application from traffic perspective and the application involving the construction of one Small House only can be tolerated on traffic grounds. Although additional traffic generated by the proposed development is not significant, the permission of development outside the “V” zone will however set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact has to be reviewed on case by case basis in the future.
10.	Drainage impact?		✓	<ul style="list-style-type: none"> - Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint.
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 and has no objection to the application. - Septic tank and soakaway system is an acceptable means for wastewater collection, treatment and disposal. - CE/MN, DSD has no objection to the application.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> - CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective. - The Site is located in miscellaneous rural fringe landscape. The proposed development is considered not incompatible with the landscape

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				setting in the proximity and significant adverse landscape impact from the proposed development is not anticipated.
13.	Local objections conveyed by District Officer (North) (DO(N))?		✓	- DO(N), Home Affairs Department (HAD) has no comment on the application and has not received any comment from the locals upon close of consultation.

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Their other detailed comments and advisory comments, if any, are at **Appendix IV and V** respectively.

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CE/MN, DSD;
- (e) CE/C, WSD;
- (f) D of FS;
- (g) DAFC;
- (h) CTP/UD&L, PlanD; and
- (i) DO(N), HAD.

10.3 The following government departments have no objection to or no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (North), Civil Engineering and Development Department (CEDD);
- (d) Head of the Geotechnical Engineering Office, CEDD; and
- (e) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 25.2.2025, the application was published for public inspection. During the statutory public inspection period, two public comments were received. One comment is from an individual objecting to the application mainly on the grounds that the development density of the surrounding areas of the Site is already very high; the proposed development will lead to adverse traffic, public transport and construction-stage environmental impacts; there are vacant houses near the Site to meet housing need; and the application might

involve trading of indigenous rights to build Small House. Another comment is from a member of the North District Council indicating no comment on the application (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed NTEH (Small House) at the Site zoned “AGR”. The proposed Small House is not in line with the planning intention of the “AGR” zone and 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. There is no strong planning justification provided in the applicant’s submission for a departure from the planning intention.
- 12.2 Regarding the Interim Criteria (**Appendix II**), the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Hang Tau. According to DLO/N, LandsD, the number of outstanding Small House applications for Hang Tau is 36, while the 10-year Small House demand forecast is between 2,900 and 3,200. Since August 2015, the Board has formally 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, the Board would put more weighting on the number of outstanding Small House applications as provided by LandsD. Based on the latest estimate by PlanD, about 3.96 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. Hence, 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.
- 12.3 The Site is hard-paved, partly occupied by a container structure and partly by vehicle parking. The proposed Small House is not incompatible with the surrounding areas which are occupied mainly by village houses, residential/temporary structures, vehicle parking, fallow agricultural and vacant land and tree groups. CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective, and considers that the proposed Small House is not incompatible with the landscape setting in the proximity and significant adverse landscape impact arising from the proposed Small House is not anticipated. On traffic aspect, C for T while having no objection to the application as it can be tolerated on traffic grounds for only one Small House is involved, it is considered that permitting Small House outside the “V” zone will set an undesirable precedent and the resulting cumulative adverse traffic impact has to be reviewed on case by case basis in the future. Other relevant government departments consulted, including DEP, CE/MN, DSD, D of FS and CE/C, WSD have no objection to the application from environmental, sewerage, drainage, fire

safety and water supply aspects respectively.

- 12.4 There are 20 similar applications for Small House developments entirely within/partly within the same “AGR” zone in the vicinity of the Site as mentioned in paragraph 7 above. 16 applications were approved by the Committee between 2001 and 2014 while one application was rejected by the Committee in July 2015 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 one application was approved by the Committee in 2018 mainly on sympathetic consideration that the site was the subject of previous approved application for the same use by the same applicant, and two applications were rejected by the Board upon review in 2017 for the reasons set out in paragraph 7.5 above. As land is still available to meet the outstanding Small House applications for Hang Tau, the planning circumstances of the current application are largely similar to the two rejected similar applications and thus rejecting the current application is in line with the previous decisions of the Board.
- 12.5 Regarding the objecting comment mentioned in paragraph 11, the planning assessments and departmental comments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, 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” zone of Hang Tau 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 11.4.2029, 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 V**.

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 attachments received on 18.2.2025
Appendix Ia	FI received on 21.3.2025
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1a	Location Plan
Plan A-1b	Similar Applications 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

PLANNING DEPARTMENT
APRIL 2025