

RNTPC Paper No. A/KTN/73  
For Consideration by  
The Rural and New Town Planning  
Committee on 5.2.2021

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

**APPLICATION NO. A/KTN/73**

- Applicant** : Max Harvest Management Limited
- Site** : Lots 1380 RP (Part), 1385 S.B, 1385 S.C (Part), 1387 S.B, 1387 S.C (Part), 1387 RP (Part) in D.D. 95 and Adjoining Government Land, Ho Sheung Heung, Sheung Shui, New Territories
- Site Area** : 625 m<sup>2</sup> (includes Government Land of about 111 m<sup>2</sup>, about 17.8%)
- Lease** : Old Schedule Agricultural Lots governed by the Block Government Lease (about 82.2% of the Site). The existing houses on Lot No. 1385 S.B and Lot No. 1387 S.C in D.D. 95 each covered by a Building Licence
- Plan** : Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2
- Zonings** : “Village Type Development Area” (“V”)
- Application** : Social Welfare Facility (Residential Care Home for Disabled and Ex-mental Illness Persons)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) with two existing New Territories Exempted Houses (NTEHs) for a social welfare facility (residential care home for disabled and ex-mental illness persons). The Site falls within an area zoned “Village Type Development” (“V”) on the Approved Kwu Tung North OZP No. S/KTN/2. According to the Notes of the OZP, ‘Social Welfare Facility’ is a Column 2 use in “V” zone which requires planning permission from the Town Planning Board (the Board). The Site together with the two existing NTEHs is

currently used for the applied use without a valid planning permission.

- 1.2 The Site is involved in 2 previous applications both approved for the same use and submitted by the same applicant. The last application No. A/KTN/19 for the social welfare facility (Residential Care Home for Persons with Disabilities) (RCHD) was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 6.11.2015. However, the application was revoked on 6.5.2020 due to non-compliance with approval condition on implementation of drainage proposal.
- 1.3 According to the applicant's submission, there are two 3-storey (8.23m) NTEHs (total floor area is about 390.18m<sup>2</sup>) in the Site. They are being used for the applied use with ancillary office providing 48 beds. A canopy with a covered area of about 101 m<sup>2</sup> is used for sitting-out and dining purposes. About 431.7m<sup>2</sup> of private open space is provided within the Site. Visiting hours are from 10:00 a.m. to 6:00 p.m. daily. The Site is accessible by a local road leading to Ho Sheung Heung Pai Fund Road (**Plan A-2**). One private car parking space is provided within the Site. There will be no more than 2 vehicular trips daily. The layout and floor plans submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.4 As compared with the previously approved application No. A/KTN/19, there is no major change to the current scheme except a reduction in site area by 53m<sup>2</sup> (-7.8%).
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) application form received on 14.12.2020 (Appendix I)
  - (b) supplementary information received on 18.12.2020 (Appendix Ia)
  - (c) further information of 27.1.2021 (two letters) (Appendix Ib)  
exempted from publication requirement

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** and supplementary/further information at **Appendices Ia** and **Ib**. They are summarized as follows.

- (a) A previous planning approval for the similar use at the Site under Application No. A/KTN/19 was granted by the Board. To take forward the proposal, 5 out of 6 approval conditions have been complied with, except implementation of drainage proposal. The application was revoked due to his negligence of not responding to the letters from the Board. The applicant will implement the drainage proposal once the

current application is approved.

- (b) The Site has been operating as RCHD for 16 years since 2004 and is currently providing service for 48 residents.
- (c) The Site has granted a License of Residential Care Home for Persons with Disabilities by Social Welfare Department (SWD) for operation of the RCHD.
- (d) There is a certain distance between the Site and the nearby residential areas. It will not have adverse impact to the surroundings.
- (e) There will be no more than 2 vehicular trips daily. The proposed development will not create adverse traffic impact to the surrounding areas.
- (f) The houses are each served by a septic tank with regular disposal arrangement. They are well maintained.

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

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

4. **Background**

The Site is currently not a subject of any active enforcement case. Should there be sufficient evidence to prove that the current use on the Site constitutes an unauthorized development under the Town Planning Ordinance, enforcement action will be taken.

5. **Previous Applications**

5.1 The Site was the subject of two s.16 applications (No. A/KTN/8 and A/KTN/19) both for RCHD use submitted by the same applicant as the current applicant. Details of the applications are summarized at **Appendix II** and its location is shown on **Plans A-1** and **A-2**.

5.2 The two applications were approved with conditions by the Committee on

28.11.2014 and 6.11.2015 respectively on the grounds 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 which were mainly village houses; the planning permission sought was to meet the licensing requirements of the SWD; and no significant adverse traffic, environmental, drainage, sewerage, landscape and fire safety impacts on the surrounding area were anticipated. However, both applications were revoked on 28.8.2015 and 6.5.2020 respectively due to incompliance with approval conditions. For the last application No. A/KTN/19, the applicant has complied with conditions relating to landscape and tree preservation as well as fire service installations, and submission of drainage proposal but has failed to comply with implementation of drainage proposal.

## 6. **Similar Applications**

6.1 There are six similar planning applications (Applications No. A/NE-KTN/179, A/NE-KTN/177, A/KTN/12, A/KTN/13, A/KTN/30 and A/KTN/32) involving 4 sites for social welfare facilities (RCHD) within the same “V” zone to the north of the Site. Details of these applications are at **Appendix III** and their locations are shown on **Plans A-1 and A-2**.

6.2 Applications No. A/NE-KTS/177 and A/NE-KTN/179 involving two sites were approved with conditions by the Committee in 2014 on similar grounds as stated in paragraph 5.2 above. Applications No. A/KTN/12 and A/KTN/13 involving another two sites were approved with conditions by the Committee in 2015 on the similar grounds but they were revoked due to non-compliance of approval conditions. Their subsequent Applications No. A/KTN/30 and A/KTN/32 were approved on 11.11.2016 and 27.10.2017 respectively as the applicant had demonstrated efforts in complying with the outstanding conditions of the previous application.

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

7.1 The Site:

(a) is located within ‘VE’ of Ho Sheung Heung Village;

(b) two 3-storey houses with a canopy within the Site are used for the applied use

without valid planning permission;

(c) is accessible by Ho Sheung Heung Pai Fund Road via a local road.

7.2 The surrounding area is rural in nature and mainly occupied by village houses of Ho Sheung Heung.

(a) to its immediate north are two RCHDs (with valid planning permission granted under applications No. A/KTN/32 and A/NE-KTN/177), to its further North are another two RCHDs (with valid planning permission granted under applications No. A/NE-KTN/179 and A/KTN/30);

(b) to its immediate east and south are open storage yards;

(c) to its further east and south are village houses of Ho Sheung Heung; and

(d) to its immediate west is unused land and Ho Sheung Heung Pai Fund Road. Across the road is a hillslope.

## 8. **Planning Intention**

The planning intention of the “V” zone is primarily intended for development of Small Houses by indigenous villagers and to concentrate village type development within this zone for a more orderly development pattern, use of land and provision of infrastructures and services.

## 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 lots under application are Old Schedule agricultural lots held under the Block Government Lease. The existing houses on Lot No. 1385 S.B and Lot No. 1387 S.C both in D.D. 95 are each covered by a Building Licence granted under the New Territories Small House

Policy for erection of NTEH.

- (b) The remaining temporary structures within the Lots and the adjoining Government land (GL) are not covered by any permission/approvals of his office.
- (c) It is noted that there are unauthorized structures erected on the Lots and the adjoining Government land without prior approval from his department. Since the aforesaid are unacceptable under lease, his department reserves the right to take lease enforcement actions against the irregularities found on the Lots. For the unauthorized occupation and/or erection of structures on the GL, his department will also consider taking appropriate land control actions against the irregularities concerned.
- (d) The number of outstanding Small House applications in Ho Sheung Heung Village is 41 and his office has no information about the figure of “10-year Small House demand” by the Indigenous Inhabitant Representative(s) (IIR(s)).
- (e) If the planning application is granted, the owners of the Lot/operators of the facilities shall apply to his office for Short Term Waivers and Short Term Tenancies to cover those temporary structures. Such applications will be considered by his department acting in the capacity as landlord at its sole discretion and there is no guarantee that such applications will be approved. If such applications are approved, they will be subject to such terms and conditions, including but not limited to payment of fees and premium, to be imposed by his department. If such applications are not approved, or the terms and conditions are not accepted, the owners/operators may be required to remove the temporary structures even if planning permission is granted.

**Social Welfare**

9.1.2 Comments of the Director of Social Welfare (DSW):

- (a) He has no adverse comment to the application.
- (b) The RCHD is operated with a licence valid from 1.3.2020 to 28.2.2022.

## **Traffic**

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

- (a) The proposed vehicular access to the Site is via a village track connecting with Ho Sheung Heung Pai Fung Road. Based on the applicant's submission on the provision of vehicular trip rate, vehicular access, parking, loading/unloading arrangement, the application is considered tolerable from a traffic engineering viewpoint.
- (b) Ho Sheung Heung Pai Fung Road and the village track leading to the site are not managed by Transport Department (TD). The applicant should check with the appropriate lands authority the land status of the Road and track. The management and maintenance responsibilities of the village track should be clarified with the relevant lands and maintenance authorities accordingly.

## **Drainage**

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

- (a) He has no objection to the application from the public drainage viewpoint.
- (b) Should the application be approved, a condition for the submission and implementation of a drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent area.

## **Environment**

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

He has no adverse comment in view of nature and scale of the welfare facility since the applicant has provided information on the sewage treatment and disposal arrangement.

## **Fire Safety**

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

- (a) He has no objection in principle to the application subject to fire service

installations (FSIs) being provided to his satisfaction.

- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to this Department for approval. His detailed advisory comments are at **Appendix V**.

### **Landscape**

9.1.7 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) It is observed that the layout of the RCHD on the current application has no significant change as compared with the previous approved application No. A/KTN/19 and therefore further impact on the existing vegetation within the Site is not anticipated.

### **Local Consultation**

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

He has not received any comment from the local on the application.

9.2 The following Government departments have no adverse comment on/ no objection to the application. Their advisory comments, if any, are in **Appendix V**:

- (a) Project Manager (New Territories East), New Territories East Development Office, Civil Engineering and Development Department (PM(NTE), CEDD);
- (b) Chief Estate Surveyor/New Development Area, Lands Department (CES/NDA, LandsD);
- (c) Chief Building Surveyor/ New Territories West, Buildings Department (CBS/NTW, BD);
- (d) Commissioner of Police;
- (e) Chief Highways Engineer/ New Territories East, Highways Department (CHE/NTE, HyD); and
- (f) Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD)



## 10. Public Comments Received During Statutory Publication Period

On 22.12.2020, the application was published for public inspection. During the three-week statutory publication period, a total of 2 public comments were received from individuals (**Appendices IV-1 to IV-2**). Of which, 1 supports the application and 1 suggests arranging local consultation on drainage and traffic issues and indicating concern on the potential impact of applied use to nearby residents.

## 11. Planning Considerations and Assessments

11.1 The Site falls within “V” zone which 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, use of land and provision of infrastructure and services. Two NTEHs (Small House) are built on the Site. There is no Small House application on the remaining part of the Site. The development is not entirely in line with the planning intention of the “V” zone. However, there is sufficient land within the “V” zone to meet the outstanding small houses applications<sup>1</sup> of Ho Sheung Heung and the applied development could provide residential care home services to person with disabilities.

11.2 The residential nature of the applied use within the existing NTEHs, located in the vicinity of another 4 previously approved existing RCHDs, is not incompatible with the surrounding developments which are mainly village houses (**Plan A-2**). Relevant Government departments consulted including DEP, C for T, D of FS, CE/MN, DSD and CTP/UD&L, PlanD have no adverse comment on the application. Approval conditions as suggested by concerned departments are included in paragraph 12.2.

11.3 The Site is involved in 2 previously approved applications for similar use of RCHD as stated in paragraph 5 above. As compared with the last application No. A/KTN/19, the site area, development parameters, and layout of the current application are similar to those of the last application. Except the approval condition on implementation of drainage proposal, all other approval conditions for the last application were complied with. Moreover, there are 6 similar applications within the same “V” zone (**Plan A-**

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<sup>1</sup>According to DLO(N), the number of outstanding Small House grant applications for Ho Sheung Heung Village is 41. His office has no information about the figure of 10-year Small House demand by IIR(s) of Ho Sheung Heung. Based on the latest estimate by PlanD, about 5.31 ha (equivalent to about 212 Small House sites) of land is available in the “V” zone of the Ho Sheung Heung Village. The land available can meet the outstanding Small House grant applications.

1) which were approved by the Committee between 2014 to 2017 as stated in paragraph 6. There has been no material change in the planning circumstance within the Site and its surrounding areas since planning permission was granted in 2015. Approval for the current application is in line with the previous decision of the Board. It is, however, noted that the last planning approval is revoked by the Board on 6.5.2020 due to non-compliance of approval condition. Should the Committee decide to approve the application, shorter compliance periods for the approval conditions on drainage facility are recommended to closely monitor the progress of compliance. The applicant would be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

11.4 There are two public comments providing views as stated in paragraph 10. In this regard, Government departments' comments and planning considerations set out above are relevant.

## 12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.

12.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the social welfare facility (residential care home for persons with disabilities and ex-mental illness persons) use under application is already in operation. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) the submission of drainage proposal within 3 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.5.2021;
- (b) the implementation of drainage proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.8.2021;

- (c) the submission of proposal for fire service installations within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **5.5.2021**;
- (d) the implementation of proposal for fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **5.8.2021**;
- (e) if any of the above planning condition (a), (b), (c) or (d) 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**

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The applied use is not in line with the planning intention of "V" zone which is primarily intended for development of Small Houses by indigenous villagers and to concentrate village type development within this zone for a more orderly development pattern, use of land and provision of infrastructures and services.

### **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 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.
- 13.3 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.

**14. Attachments**

<b>Appendix I</b>	Application Form with supporting documents received on 14.12.2020
<b>Appendix Ia</b>	Supplementary information dated 18.12.2020
<b>Appendix Ib</b>	Further information of 27.1.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendices IV-1 to IV-2</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawings A-2 to A-3</b>	Floor Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
FEBURARY 2021**