

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

**APPLICATION NO. A/NE-KTS/474**

<b><u>Applicants</u></b>	Ms. WONG Man Yi and Mr. LEE Man Chun Raymond
<b><u>Site</u></b>	Lots 1304 RP and 2598 RP (Part) in D.D. 92, Kam Tsin, Kwu Tung South, Sheung Shui, New Territories
<b><u>Site Area</u></b>	1,244.58 m <sup>2</sup>
<b><u>Lease</u></b>	(a) Block Government Lease (demised for agricultural use) - Lot 1304 RP in D.D. 92  (b) New Grant Lot for private residential purpose - Lot 2598 RP in D.D. 92
<b><u>Plan</u></b>	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
<b><u>Zoning</u></b>	“Village Type Development” (“V”)
<b><u>Application</u></b>	Renewal of Planning Approval for Temporary Private Swimming Pool Ancillary to a Permitted House for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek renewal of planning approval for temporary private swimming pool at the application site (the Site) for a period of 3 years for a permitted house<sup>1</sup> (**Plan A-2**). The Site falls within an area zoned “V” on the Approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is occupied by a house and the applied use with valid planning permission.

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<sup>1</sup> The 2-storey house (not New Territories Exempted House (NTEH)) was approved by the Rural and New Town Planning Committee (the Committee) under application No. A/NE-KTS/100 on 10.9.1999.

- 1.2 The Site is the subject of 6 previous applications which were all approved. Amongst which, 4 previous applications (No. A/NE-KTS/247, 301, 347 and 418) were for the same use as the current application. The last application (No. A/NE-KTS/418) for renewal of planning approval granted under Application No. A/NE-KTS/347 was approved with conditions by the Committee on 10.6.2016 for a period of 3 years. All approval conditions in relation to landscape and tree preservation proposal have been complied with. The planning permission is valid until 16.8.2019.
- 1.3 The applied swimming pool (115m<sup>2</sup>) and filtration plant room (26m<sup>2</sup> with height of 4.3m) is at the eastern portion of the Site (i.e. Lot 1304 RP) while the 2-storey house is at the western portion of the Site (i.e. Lot 2598 RP) (**Drawing A-1**). According to the applicants' submission, the current application is the same as the previous approved application (No. A/NE-KTS/418) except that with smaller site area in the current application (reduced by 52m<sup>2</sup>).
- 1.4 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with plans received on 14.6.2019 (Appendix I)
  - (b) Supplementary information of 19.6.2019 (Appendix Ia)

## 2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the Application Form at **Appendix I**. They are summarized as follows:

- (a) The applied swimming pool and the filtration plant room are ancillary to the existing house. The applied use is the same as that under previous approved application No. A/NE-KTS/418. All approval conditions of the previous planning permission have been fully complied with.
- (b) The applied use is in line with the planning intention. There will be no additional traffic, drainage and environmental impacts from the applied use.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

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

Town Planning Board Guidelines on Renewal of Planning Approval and Extension of

Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) is relevant to the application. The relevant assessment criteria for assessing application for renewal of planning approval are summarised below:

- (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 currently not subject to any active enforcement action.

## **6. Previous Applications**

- 6.1 The Site is the subject of 6 previous applications (No. A/NE-KTS/39, 100, 247, 301, 347 and 418). Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-2**.
- 6.2 Application No. A/NE-KTS/39 for a proposed house was approved by the Committee on 26.4.1996 mainly on the considerations of compatible with surrounding land uses, no adverse environmental, drainage and traffic impacts on the area and unlikely affecting Small House development in Kam Tsin Village. The planning permission later lapsed. Application No. A/NE-KTS/100 for a proposed house was approved on 10.9.1999 on similar grounds. The Occupation Permit for the house was issued by the Building Authority on 29.6.2009.
- 6.3 Application No. A/NE-KTS/247 for the same use as the current application for a period of 3 years was approved on 23.3.2007 mainly on the consideration of not adversely affect the village character of the area due to small in scale of the swimming pool. The planning permission was subsequently revoked on 23.6.2009 due to non-compliance with approval conditions. Application No. A/NE-KTS/301 for the same use for a period of 3 years was approved on

26.11.2010 on similar grounds and unlikely causing adverse impact to the surrounding areas. The planning permission was subsequently revoked on 26.6.2013 due to non-compliance with approval conditions.

- 6.4 Application No. A/NE-KTS/347 for the same use under the current application for a period of 3 years was approved on 16.8.2013 on similar grounds as stated in paragraph 6.3 above. All the approval conditions have been complied with. The renewal application No. A/NE-KTS/418 was approved on 10.6.2016. All the approval conditions have been complied with and the planning permission is valid until 16.8.2016.

## **7. Similar Applications**

There is no similar application for temporary private swimming pool use within the same “V” zone.

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

8.1 The Site is:

- (a) situated entirely (100%) within “V” zone and partly (about 15%) within the village ‘Environ’ (‘VE’) of Kam Tsin;
- (b) fenced off by walls;
- (c) occupied by the applied private swimming pool and filtration plant room at the eastern portion (i.e. Lot 1304 RP), and a two-storey house at the western portion (i.e. Lot 2598 RP); and
- (d) accessible via a local track connecting Kam Tsin Road.

8.2 The surrounding areas have the following characteristics:

- (a) surrounded by village houses in 4 sides; and
- (b) to the further south are fallow agricultural land, warehouse, storage/open storage of construction materials and vacant land.

## **9. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognized 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 villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. 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 are summarised as follows:

### **Land Administration**

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

- (a) the Site comprises Lots No. 1304 RP and 2598 RP in D.D. 92. Lot No. 1304 RP is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access, and is covered by a valid Short Term Waiver (STW) No. 1560 for the purposes of private swimming pool and filtration plant room. Lot No. 2598 RP in D.D. 92 is a New Grant Lot held under New Grant No. 20071 for private residential purpose. The applicants should make their own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the applied use;
- (b) the applicants are advised of the following:
  - (i) the boundary of actual occupation area and the Site do not tally;
  - (ii) unauthorised structures were erected on the application lots and on the lots that fall within the actual occupation boundary but not within the application lots. The aforesaid structures are not acceptable under the Leases concerned and his office reserves the right to take necessary lease enforcement actions against the structures concerned;
  - (iii) some Government land adjoining the Site is being occupied without approval. The applicants should remove all the structures erected on the Government land

concerned at their own cost. His office reserves the right to take necessary land control actions against the irregularities; and

- (iv) the total built-over area of the structures erected on the actual occupation area is greater than the applied one mentioned in the application;
- (c) Lot No. 1304 RP in D.D. 92 falls outside the 'VE' of Kam Tsin but portion of Lot No. 2598 RP in D.D. 92 falls within the 'VE' of Kam Tsin;
- (d) no Small House application at the Site has been received by his office. His office has no comment on the application from Small House Policy perspective at present stage;
- (e) Lots No. 1304 RP and 2598 RP in D.D. 92 are not covered by any Modification of Tenancy/Building Licence. However, STW No. 1560 is granted to Lot No. 1304 RP with a built over area not exceeding 141m<sup>2</sup> and building not exceeding 3.8m above ground level for the purpose of a private swimming pool and filtration plant room; and
- (f) if the application is approved, the owners of the lots concerned shall apply to his office for a STW and Short Term Tenancy (STT) covering all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

### **Traffic**

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

- (a) he noted that the vehicular access to the Site is via the existing local tracks connected to Kam Tsin South Road and Kam Tsin Road. Based on the applicants' submission on the provision of vehicular access and traffic arrangement, he considers that the application can be tolerated from traffic engineering viewpoint; and
- (b) the unnamed local tracks are not under his department's management. In this regard, the land status of the access

leading to the Site should be checked with the lands authority. The management and maintenance responsibilities of the same access should also be clarified with the relevant lands and maintenance authorities accordingly.

### **Environment**

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

- (a) he noted from the justifications by the applicants (**Appendix I**) that the applied use is the same as that of the previous approved application No. A/NE-KTS/418;
- (b) given the application is for temporary use, it is advised to make reference to his department's "*Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites*"; and
- (c) the applicants should follow the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" to handle the discharges from the swimming pool including filtration plant backwash. The applicants are also reminded to replace the filter regularly and to comply with the requirements stipulated in Water Pollution Control Ordinance for any discharge arising from the swimming pool.

### **Drainage**

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

- (a) he has no objection in principle to the application from public drainage viewpoint; and
- (b) should the application be approved, a condition should be included to request the applicants to submit the drainage condition record and review the adequacy of the existing drainage system, including the arrangement of discharge from the swimming pool, to ensure that it will not cause adverse drainage impact to the adjacent area.

### **Landscape**

#### 10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

in consideration that the Site is not located at landscape sensitive areas and the applied development is unlikely to cause any adverse visual and landscape impacts, it is opined that the landscape condition is not recommended, should the application be approved by the Board.

### **Building Matter**

#### 10.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD)

he has no objection to the application. An Occupation Permit No. NT 60/2014(OP) dated 18.8.2014 was issued for a filtration plant room and a swimming pool at the Site.

### **Fire Safety**

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

- (a) he has no objection in principle to the application subject to FSIs being provided to the satisfaction of D of FS; and
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicants are advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. His advisory comments on preparing the layout plans are at **Appendix IV**.

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

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

- (a) he has consulted the locals from 11.7.2019 to 18.7.2019;
- (b) the Resident Representative of Kam Tsin supports the application; and
- (c) the Chairman of Sheung Shui District Rural Committee (SSDRC), the North District Council (NDC) member of the subject constituency and the Indigenous Inhabitant Representatives (IIRs) of Kam Tsin have no comment on the application.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);



- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

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

On 21.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.7.2019, one comment (**Appendix III**) submitted by a member of the general public was received. The commenter indicates that the Site could accommodate a number of village houses.

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

- 12.1 The application is for renewal of planning approval for temporary private swimming pool ancillary to a permitted house for a period of 3 years. The Site falls within “V” zone. DLO/N, LandsD has no adverse comment on the application and advises that no Small House application at the Site has been received by his office. Given the temporary nature of the applied development, the long-term planning intention of the “V” zone would not be jeopardized.
- 12.2 The swimming pool with an area of 115m<sup>2</sup> is small in scale and is in use. The applied development is not incompatible with the surrounding land uses which are predominately rural in nature mainly with village houses and residential developments. The temporary swimming pool would unlikely cause adverse traffic, environmental, drainage and landscape impacts on the surrounding areas and the concerned Government departments including C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD have no adverse comment on or objection to the application. The technical concerns from CE/MN, DSD and D of FS could be addressed by imposing approval conditions as recommended in paragraphs 13.2 (a) to (c) below.
- 12.3 The application is in line with the TPB PG-No. 34C in that since the last approval, there has been no major change in planning circumstances; all approval conditions have been complied with; and the 3-year approval period sought is the same as the previous application.
- 12.4 There are 4 previously approved applications for the same applied use at the same site. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 There is one public comment indicating that the Site could accommodate a number of village houses. In this regard, relevant Government department's' comments and planning assessments as stated in paragraph 12.1 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 comment mentioned in paragraph 11, the Planning Department considers that the temporary private swimming pool ancillary to a permitted house could be tolerated 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 17.8.2019 until 16.8.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) the submission of a condition record of the existing drainage facilities implemented on the application site and review the adequacy of the existing drainage system, including the arrangement of discharge from the swimming pool within 3 months from the date of commencement of renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.11.2019;
- (b) the submission of proposal of fire service installations within 6 months from the date of commencement of renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.2.2020;
- (c) in relation to (b) above, the implementation of proposal of fire service installations within 9 months from the date of commencement of renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.5.2020; and
- (d) if any of the above planning conditions (a), (b) or (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; and

#### Advisory clauses

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

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

the applied development is not in line with the planning intention of the "Village Type Development" zone in Kwu Tung South area 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, efficient use of land and provision of infrastructures and services. There is no strong planning justification in the submission for a departure from such 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 the renewal of the planning permission.
- 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 applicants.

#### **15. Attachments**

<b>Appendix I</b>	Application Form with Plans received on 14.6.2019
<b>Appendix Ia</b>	Supplementary Information of 19.6.2019
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Public comment
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2019**