

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/479

- Applicant** : Mr. LIU Chun Long represented by Chuo Wang Development Consultant Limited
- Site** : Lot 894 S.L and 894 S.P in D.D. 94, Hang Tau, Sheung Shui, New Territories
- Site Area** : 113.7 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
- Zoning** : “Agriculture” (“AGR”) (about 82% of the Site)
“Village Type Development” (“V”) (about 18% of the Site)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

- 1.1 The applicant who claims himself to be an indigenous villager¹ of Sheung Shui Heung seeks planning permission to build a house (NTEH - Small House) (in Lot 894 S.L) on the application site (the Site) in Hang Tau Village, Sheung Shui. The Site falls within an area partly zoned “AGR” (about 82%) and partly zoned “V” (about 18%) on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16 (**Plans A-1 and A-2a**). According to the Notes of the OZP, the proposed ‘House (NTEH)’ in “AGR” zone requires planning permission from the Town Planning Board (the Board) while no planning permission is required for such use in the “V” zone. The Site is vacant and paved (**Plan A-4**).
- 1.2 The proposed Small House has a covered area of 55.74m², 3 storeys (8.23m) and a total gross floor area of 167.22m², without balcony. The applicant has indicated that the uncovered area of the Site will be used as circulation area for nearby residents. Septic tank will be provided. Layout of the proposed Small House

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.

development is at **Drawing A-1**.

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

- (a) Application Form with plans received on 15.7.2019 **(Appendix I)**
- (b) Further Information (FI) of 7.1.2020* **(Appendix Ia)**
- (c) FI of 18.2.2020* **(Appendix Ib)**

* Exempted from publication

1.4 On 6.9.2019 and 13.12.2019, the Rural and New Town Planning Committee (the Committee) agreed to defer a decision on the application as requested by the applicant to allow time to address the comments of relevant Government departments and review the location of the Small House. On 7.1.2020, the applicant submitted FI, and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I** and FIs at **Appendices Ia and Ib**. They are summarized as follows:

- (a) The applicant is an indigenous villager of Sheung Shui Heung and he is eligible for the construction of a Small House according to the Small House Policy. As there is not much available land within Hang Tau for erection of Small House, it is not easy to find a suitable land for Small House development.
- (b) The Site falls within the Village ‘Environs’ (‘VE’) of Hang Tau. A small part of the Site falls within “V” zone. The proposed development is compatible with the surrounding areas where a number of approved Small Houses (i.e. Applications No. A/NE-KTS/135, 136, and 138 to 144) are found (**Plan A-2b**).
- (c) The Site is generally flat, paved and has no direct vehicular access. The proposed development would not involve land filling and tree felling. It would not cause adverse environmental impact and increase traffic burden of Hang Tau Village.
- (d) With regard to the existing Right of Way (ROW) within the Site (i.e. Lot 894 S.P) for pedestrian circulation of nearby residents, the footprint of the proposed Small House is reduced to avoid encroaching upon the ROW.

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. **Assessment Criteria**

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

5. **Background**

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

6. **Previous Application**

There is no previous application on the Site.

7. **Similar Applications**

7.1 There are 48 similar applications at 35 locations for Small House development within/partly within the “AGR” zone in the vicinity of Hang Tau Village since the first promulgation of the Interim Criteria on 24.11.2000. Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2b**.

Approved Applications

7.2 Of the 41 applications approved with conditions by the Committee, 38 applications were approved between 2001 and 2014 mainly on 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 that there was not sufficient land within the “V” zone to satisfy the Small House demand (based on the 10-year forecast). The remaining 3 applications were approved in 2017 and 2018 as planning permissions had been granted to previous applications for the same use on the sites and there was no material change in the planning circumstances since then.

Rejected Applications

7.3 7 applications were rejected by the Committee or by the Board on review. Of which, 3 applications (No. A/NE-KTS/368, 388 and 402) were rejected between 2014 and 2015 mainly for reasons of not complying with the Interim Criteria in that more than 50% of the sites and/or the footprint of the proposed Small Houses fall outside both the ‘VE’ and “V” zone and land was still available within the “V” zone to meet outstanding Small House applications, being not in line with the planning intention of the “AGR” zone, and setting undesirable precedent causing cumulative adverse traffic and landscape impacts to the area.

7.4 Since the Board adopted a more cautious approach in considering applications for

Small House development in recent years as stated in paragraph 12.3 below. 4 applications (No. A/NE-KTS/443, 447, 468 and 476) were rejected in 2017 and 2019 mainly for reasons of being not in line with the planning intention of the “AGR” zone and availability of land within “V” zone to meet the outstanding Small House applications. For the last 2 applications, they were at the same site and had previous planning permissions, but they were submitted by different applicants.

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

8.1 The Site is:

- (a) generally flat, vacant and paved;
- (b) located to the immediate east of the village cluster of Hang Tau Village and falls entirely within the ‘VE’ of Hang Tau; and
- (c) accessible via a footpath to the south of the Site and there is no direct vehicular access. There is a village road, about 40m to the southwest of the Site.

8.2 The surrounding area is predominantly rural in nature with village houses, plant nursery and active/fallow agricultural land and has the following characteristics:

the Site is surrounded by village houses. 11 houses to its immediate north, east and south were developed with planning permissions granted between 2001 and 2014. To its immediate west are village houses within the “V” zone. To the further east and south beyond the village houses are mainly plant nursery, scattered domestic structures and active/fallow agricultural land.

9. Planning Intention

9.1 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.

9.2 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 infrastructure 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The application has 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? - Footprint of the proposed Small House - Site	- 18%	100% 82%	The footprint of the proposed Small House falls wholly within “AGR” zone. The Site falls largely within “AGR” zone, with a small portion in “V” zone.
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.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet Small House demand in Hang Tau Village: about 81.3 ha (equivalent to about 3,250 Small House sites). The outstanding Small House applications for Hang Tau Village are 50 ² 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? (Plan A-2c)	✓		- Land available to meet the Small House demand within the “V” zone of the village concerned: about 4.42 ha (equivalent to about 176 Small House sites).

² Among the 50 outstanding Small House applications, 24 of them fall within the “V” zone, and 26 straddle or outside the “V” zone including the subject application site and 2 sites with valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view against the application from agricultural point of view. The Site is currently a cemented vacant land. Although agricultural activities are active in the vicinity and agricultural infrastructures such as footpath is available, the Site is enclosed by Small Houses and possesses low potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The Site is located in an area predominantly rural in nature with village houses, plant nursery and active/fallow agricultural land.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no specific comment on 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) has reservation on the application due to setting undesirable precedent resulting in cumulative adverse traffic impact, but considers that the application only involving one Small House can be tolerated.
10.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advised that approval condition requiring submission and implementation of drainage proposal be imposed should the application be approved.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 developments, 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"> - 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. - Based on his site visit conducted on 29.7.2019, the Site was hard paved and no existing tree was found within the Site. Further significant landscape impact arising from the proposed use is not anticipated. - In view that there is no adequate space within the Site for meaningful landscape, landscape condition is not recommended.
13.	Local objections conveyed by District Officer (North) (DO(N))?	✓		<ul style="list-style-type: none"> - The North District Council (NDC) member of the subject constituency objects to the application mainly on the grounds that there is drainage issue in the area, and significant flooding in the vicinity of the Site remains unsolved. The flooding issue should be addressed. - The Chairman of the Sheung Shui District Rural Committee (SSDRC) and the Indigenous Inhabitant Representatives (IIRs) and Resident Representative (RR) of Hang Tau have no comment on the application.

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 IV**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

11. Public Comments Received During Statutory Publication Period

On 23.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, a total of 23 public comments were received. One comment (**Appendix V-1**) from an individual indicates no comment on the application. The remaining 22 comments (**Appendices V-2 to V-23**) submitted by Designing Hong Kong and individuals/local residents (including 2 letters with 60 signatures) object to the application mainly on the following grounds:

- (a) The proposed development is not in line with the planning intention of “AGR” zone. Land is still available within “V” zone. Approval of the application would set an undesirable precedent for similar applications.
- (b) Natural vegetation in the Site has been cleared and the Site has been paved. Approval of the application may reward unauthorised use and/or ‘destroy first and develop later’ situation in the Site.
- (c) The proposed development occupying the common access would result in a narrow access and severely affect nearby residents. Lot 894 S.P (part of the Site) is shown under the lands document as part of Lot 894 RP (**Plan A-2a**) which is ROW³ in the Land Registry in 2013. The proposed development will no longer allow vehicular traffic passing through the ROW. It would adversely affect fire fighting and rescue

³ DLO/N, LandsD advised that Lot 849 S.P (i.e. the north-western corner of the Site) is subject to an incumbrance of Deed of Grant of ROW (for pedestrian and vehicle) to the owners/occupiers of the adjoining lots. The applicant has reduced the footprint of the proposed house in his FI of 18.2.2020 (**Appendix Ib**) to avoid encroaching upon the ROW.

as well as movement of large items by the local residents.

- (d) The Site is the only space for recreational activities for the local residents. The proposed development at the Site would cause adverse impact on air ventilation and natural lighting on the nearby houses as well as causing flooding during rain season.
- (e) The proposed septic tank close to an existing soak-away system would increase the water load on the surrounding ground and cause pollution from run-off. The clearance operation of septic tanks would result in hygiene issue. Septic tank is undesirable.
- (f) It will block the views of residents, resulting in security issue.

12. Planning Considerations and Assessments

- 12.1 The application is for a NTEH (Small House) at the Site which is partly within the “AGR” zone (82%) and partly within the “V” zone (18%), while the footprint of the proposed house falls wholly within the “AGR” zone. The proposed Small House is in line with the planning intention of the “V” zone which is primarily intended for development of Small Houses. Although 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 has no strong view against the application from agricultural point of view because the Site is currently a cemented vacant land enclosed by Small Houses, and possesses low potential for agricultural rehabilitation.
- 12.2 The Site is located to the immediate east of the village cluster of Hang Tau Village and surrounded by village houses on all sides. The 11 houses to its immediate north, east and south were developed with planning permissions granted between 2001 and 2014. The proposed development is not incompatible with the surrounding environment which is rural in nature with village houses, plant nursery and active/fallow agricultural land. CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective as the Site is hard paved and no existing tree is found within the Site. DEP advises that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage. CE/MN, DSD has no objection to the application. It is not anticipated that the proposed development would have significant adverse landscape, environmental and drainage impacts on the surrounding areas. While C for T has concern on cumulative adverse traffic impact caused by future similar developments, given that the application involving one Small House only, he considers that the application could be tolerated.
- 12.3 Regarding the Interim Criteria (**Appendix II**), 100% of the footprint of the proposed Small House falls within the ‘VE’ of Hang Tau (**Plan A-1**). According to DLO/N, LandsD, the total number of outstanding Small House applications for Hang Tau Village is 50. As provided by the IIRs of Hang Tau, the 10-year Small House

demand forecast for the Village is between 2,900 and 3,200. Based on the latest estimate by PlanD, about 4.42 ha (or equivalent to about 176 Small House sites) of land is available within the “V” zone of Hang Tau Village (**Plan A-2c**). There is sufficient land available within the “V” zone 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, the Site is located at the eastern fringe of Hang Tau Village and surrounded by existing cluster of village houses. Hence, the Site is an infill site enclosed by existing Small Houses. According to the Interim Criteria, sympathetic consideration may be given to application for Small House at a site which is an infill site among existing Small Houses.

- 12.4 There are 48 similar applications for proposed Small House development which fall entirely/partly within the same “AGR” zone in the vicinity of Hang Tau Village (**Plans A-1 and 2b**). As stated in paragraph 7, 7 applications were rejected and 41 applications were approved on the consideration of complying with the Interim Criteria or sympathetic considerations due to previously approved applications for the same use on the sites. The 7 rejected cases are either having more than 50% of the Site and/or the footprint of the house falls outside both the “VE” and “V” or not infill site. The approval of the current application based on the special circumstances of the Site mentioned in paragraph 12.3 is considered not in conflict with the Interim Criteria.
- 12.5 There are 4 local comments conveyed by DO(N) and 23 public comments received as stated in paragraphs 10.1 and 11. In this regard, relevant Government departments’ comments and planning assessments as stated in paragraphs 12.1 to 12.4 above are relevant. Regarding the common access issue, the applicant has already reduced the footprint of the proposed Small House to avoid encroaching upon the ROW which will be retained for the use of nearby residents.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local views and public comment mentioned in paragraphs 10.1 and 11, the PlanD 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 6.3.2024, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of 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 VI**.

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 "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 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 the 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 date when the validity of the permission should expire.
- 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 applicant.

15. Attachments

Appendix I	Application Form with plans received on 15.7.2019
Appendix Ia	FI of 7.1.2020
Appendix Ib	FI of 18.2.2020

Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Comments from Relevant Government Departments
Appendix V-1 to V-23	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plans A-2a to A-2b	Site Plans
Plan A-2c	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
MARCH 2020**