

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/485

<u>Applicants</u>	:	Mr. LEE Man Chun Raymond and Ms. WONG Man Yi represented by PlanPlus Consultancy
<u>Site</u>	:	Lot 2598 RP in D.D. 92, Kam Tsin, Kwu Tung South, New Territories
<u>Site Area</u>	:	About 708.1 m ²
<u>Lease</u>	:	New Grant Lot for Private Residential Purpose
<u>Plan</u>	:	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
<u>Zoning</u>	:	“Village Type Development” (“V”) [restricted to a maximum building height (BH) of 3 storeys (8.23m)]
<u>Application</u>	:	Proposed House (Redevelopment)

1. The Proposal

- 1.1 The applicants seek planning permission for redevelopment of an existing house to the proposed house with an ancillary swimming pool on the application site (the Site). 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, ‘House (not elsewhere specified)’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is occupied by a 2-storey house (non-New Territories Exempted House (NTEH)).
- 1.2 The Site is the subject of 2 previous applications for house use, which were all approved by the Rural and New Town Planning Committee (the Committee) (**Plan A-1**). The last application (No. A/NE-KTS/100) was approved in 1999 and the existing house of 2-storey with a gross floor area (GFA) of 260m² was developed based on this planning permission with Occupation Permit issued by the Building Authority on 29.6.2009.
- 1.3 According to the applicant’s submission, the proposed development is for a

2-storey (7.5m) house with an at-grade covered car port (80m²)¹ for 3 private car parking spaces. The proposed development has a plot ratio (PR) of 0.37, GFA of 260m² and site coverage (SC) of 32%². The layout plan, floor plans, section plans and landscape proposal submitted by the applicants are at **Drawings A-1 to A-6**. Compared with the existing house, the GFA and building height (BH) of the proposed house remain the same. The SC is increased by 9%, i.e. from 23% to 32%, as the proposed development includes the covered car port. Another change is the inclusion of an ancillary swimming pool (12m x 2.4m) within the Site.

1.4 According to the applicants' submission, the existing underground septic tank and soakaway pit will be retained. The vehicular ingress/egress remains at the south-western corner of the Site. The Site is accessible via a local track connecting Kam Tsin Road. According to the submitted tree preservation and landscape proposal (**Drawing A-6**), there is one existing tree within the Site which is proposed to be retained. A greenery buffer along the western boundary is proposed as screening to blend in with the surrounding development.

1.5 In support of the application, the applicants have submitted the following documents:

- (a) Application Form received on 3.1.2020 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Replacement Pages of Application Form received on 8.1.2020 (Appendix Ib)
- (d) Further Information of 6.2.2020* (Appendix Ic)
- (e) Further Information of 12.3.2020* (Appendix Id)

* Exempted from publication

1.6 The application was originally scheduled for consideration by the Committee on 21.2.2020. In light of the special work arrangement for Government departments due to the novel coronavirus infection, the meeting originally scheduled for 21.2.2020 has been rescheduled to 26.5.2020. On 26.5.2020, the Committee agreed to defer a decision on the application as requested by the applicants to allow time for preparation of further information to address departmental comments. On 11.8.2020, the applicants submitted a letter to reactivate the application. The application is scheduled for consideration by the Committee at this meeting.

¹ According to the applicants, GFA concession for ancillary at-grade covered car port would only be ascertained at discretion of the Buildings Department at building plan submission stage.

² 32% SC includes the covered car port while GFA of 260m² and PR of 0.37 refer to the house only.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia** and further information at **Appendices Ic** and **Id**. They are summarized as follows:

- (a) The proposed development is in line with the planning intention of “V” zone and the BH restriction as stipulated in the OZP.
- (b) The proposed 2-storey house of 7.5m high is compatible with the surrounding low-rise low-density residential developments in Kam Tsin Village.
- (c) The two previously approved applications (No. A/NE-KTS/39 and 100) for house development on the Site demonstrate the acceptability of ‘House’ use by the Board. The proposed development is similar in nature and scale to the last approved application (No. A/NE-KTS/100), and there is no material change in the planning circumstances. It is anticipated that the current application would not jeopardise the long-term planning intention of the “V” zone in Kam Tsin Village.
- (d) The Mother Lot 2598 has building entitlement restricted to GFA of not more than 260m², SC of not exceeding 25% and BH of 7.5m (2 storeys). The Mother Lot has been divided into Lots 2598 RP (708.1m²) (the Site) and 2598 S.A (25.1m²) (**Plan A-2**). Under the legal document, the Site can utilise all the permissible GFA of 260m² under the Mother Lot and Lot 2598 S.A does not have building entitlement. The proposed development parameters under the current application are in line with the conditions stipulated under the lease. The applicants, i.e. the land owners of the Site, have the as-of-right entitlement to develop the Site in accordance with the restrictions stipulated under the lease.
- (e) As the nature and development intensity of the proposed house is similar to the existing one on the Site, the traffic generation of the proposed development is insignificant. The applicants would maintain the existing drainage provisions. The applicants would ensure that all relevant Government requirements relating to sewerage aspect will be met prior to the occupation of the proposed redevelopment. Therefore, no additional adverse traffic and environmental impacts are anticipated.
- (f) The applicants intend to redevelop the existing house with better building design. Opportunity is taken to adopt contemporary architectural design concept.

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

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

4. Background

The Site is not subject to any active enforcement action.

5. Previous Applications

5.1 The Site is the subject of 2 previous applications for house use. Besides, there are 5 other applications covering the Site and the adjoining lot for a temporary swimming pool at the adjoining lot to serve the residents of the existing house on the Site. While the permitted house falls within the Site, the temporary swimming pool falls outside the Site. All were approved by the Committee. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

5.2 For the two previous applications for house use, application No. A/NE-KTS/39 for a proposed 1-storey house with GFA of 162.58m² was approved in 1996 mainly on the considerations of being compatible with surrounding land uses, having no adverse environmental, drainage and traffic impacts and being unlikely to affect Small House development in Kam Tsin Village, but it was not implemented. The subsequent application No. A/NE-KTS/100 for a proposed 2-storey house with GFA of 260m² was approved in 1999 on similar grounds, and the approved scheme was developed as the existing house. The applicants of the current application are different from the previous applications.

5.3 The other 5 applications for a temporary private swimming pool on the adjoining site were all approved for a period of 3 years by the Committee between 2007 and 2019. The last one (No. A/NE-KTS/474) submitted by the same applicants as the current application is valid until 16.8.2022.

6. Similar Application

There is no similar application for house (non-NTEH) development within the same “V” zone.

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

7.1 The Site is:

- (a) situated entirely within “V” zone and partly (about 30%) within the village ‘Environ’ (‘VE’) of Kam Tsin;
- (b) partly fenced by walls;

- (c) mainly occupied by a 2-storey house; and
- (d) accessible via a local track connecting Kam Tsin Road.

7.2 The surrounding area is predominantly rural in nature and mainly surrounded by village houses with the following characteristics:

- (a) to the immediate east is a temporary private swimming pool ancillary to the existing house on the Site; and
- (b) to the north and immediate south and west are village houses; to the further south and west are open storages, vacant land and fallow agricultural land.

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

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

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

- (a) less than 50% of the Site falls within the ‘VE’ for Kam Tsin;
- (b) according to his record, there is no Small House application on the Site. As the Site is with building status, his office has no comment on the proposed redevelopment on the Site from Small House Policy perspective;
- (c) Lot No. 2598 in D.D. 92 (“the Mother Lot”) (733.2m²) is held under the Agreement and Conditions of Exchange dated 20.6.2005 and registered in the Land Registry as New Grant No.

20071 (“the Land Grant”). The Land Grant specifies, among other things, the following (i) private residential purposes, (ii) maximum GFA of 260m² (with exemption for car parking spaces as per item (v) below), (iii) no part of any building or other structure erected or to be erected on the lot shall exceed the aggregate height of 7.5m above the mean formation level, (iv) maximum SC of 25% (with exemption for car parking spaces as per item (v) below) and (v) not more than 3 spaces or car ports shall be provided within the Mother Lot and such spaces or car ports shall not be taken into account for GFA and SC calculation. With a consent letter dated 26.6.2012, the Mother Lot was subsequently partitioned by way of Deed Poll dated 29.8.2013 into 2 lots, namely Lot 2598 S.A (**Plan A-2**) of 25.1m² (about) and Lot 2598 RP (i.e. the Site) of 708.1m² (about);

- (d) as revealed from applicants’ submission, it appears that the applicants have an intention to implement the proposed house redevelopment in accordance with the Land Grant. The redevelopment proposal including the proposed ancillary garage will be considered in details upon the building plan stage and he shall reserve his comment at this stage. In the event that redevelopment proposal does not comply with the lease e.g. the ancillary garage or part thereof is accountable for GFA and SC calculation, a lease modification is required to effect such redevelopment proposal;
- (e) regarding the maximum permissible GFA of 260m² under the lease, he has no comment that it is applicable to the subject lot;
- (f) according to his record, it is revealed that part of the filtration room on the adjoining Lot 1304 RP (**Plan A-2**) encroached onto the Site. His office reserves the right to take lease enforcement action against any unauthorised structure on site; and
- (g) if the Board approves the application for the proposed house redevelopment, the lot owner may be required to apply to his department for lease modification to effect the proposal. Such application will be considered by his department acting in the capacity of landlord at its sole discretion and there is no guarantee that such application will be approved. In any event, such application, if approved, will be subject to such terms and conditions as considered necessary.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he notes that the vehicular access to the Site is via the existing local tracks connected to Kam Tsin Road. Based on the submission, the application is for the redevelopment of an existing residential unit. He considers 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 applicants should check with the lands authority the land status of the access leading to the Site. The management and maintenance responsibilities of the same access should be clarified with the relevant lands and maintenance authorities accordingly.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) in view that the application covers redevelopment of a proposed house, no insurmountable environmental impact is anticipated. With regard to sewerage disposal, it is noted from the further information (**Appendix Ic**) that the existing sewerage disposal arrangement at the Site with underground septic tank and soakaway pit will be retained for future use. He has no adverse comment on the arrangement provided that the operation and maintenance of the septic tank and soakaway pit follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93. The Percolation Test and Minimum clearance requirements stated in ProPECC PN 5/93 should be fully complied with and duly certified by consulting engineer/Authorised Person; and
- (b) the applicants are also advised to strictly observe all relevant pollution control ordinances, particularly on waste management and disposal, and put in place necessary precautionary/pollution control measures to prevent any pollution to the nearby sensitive receivers as a result of the construction activities.

Drainage

9.1.4 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) he notes that no information regarding drainage matter was provided in the application. Should the application be approved, condition should be included to request the applicants to submit a drainage proposal for the Site to ensure that the development will not cause adverse drainage impact to the adjacent area, and to implement the approved drainage proposal at his own cost and resources.

Urban Design and Landscape

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

- (a) the Site is within an area characterized by low-rise buildings. The proposed 2-storey house of 7.5m in height at the Site is not incompatible with the neighbourhood. It is unlikely to result in significant visual impact to the surroundings; and
- (b) the Site does not fall within landscape sensitive zonings and no significant landscape impact is envisaged. The applicants are reminded that any tree treatment works, including pruning, shall be approved by the relevant tree authority as necessary prior to commencement of works.

Building Matter

9.1.6 Comments of the Chief Building Surveyor/New Territories West (CBS/NTW), BD:

- (a) he has no objection to the application;
- (b) the Site does not abut on a specified street which is not less than 4.5m, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation (B(P)R) at the building plan submission stage;
- (c) emergency vehicular access (EVA) for every building of the proposed development should be provided in accordance with B(P)R 41D; and
- (d) the applicants are advised to appoint an Authorized Person/Registered Structural Engineer/Registered Geotechnical Engineer and submit the required plans to the Building Authority for approval in accordance with the Buildings Ordinance. His position under the Buildings Ordinance is hereby reserved.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in principle to the proposed development subject to water supplies for firefighting and fire service installations being provided to his satisfaction. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licencing authority; and
- (b) EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under B(P)R 41D which is administered by BD.

District Officer's Comments

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

- (a) he has consulted the locals from 17.1.2020 to 31.1.2020; and
- (b) the Chairman of Sheung Shui District Rural Committee (SSDRC), the North District Council (NDC) member of the subject constituency, the Resident Representative (RR) and the Indigenous Inhabitant Representative (IIR) of Kam Tsin have no comment on the application.

9.2 The following Government departments have no objection to / adverse comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Commissioner of Police (C of P);
- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (e) Director of Electrical and Mechanical Services (DEMS) (Advisory comments in **Appendix IV**).

10. Public Comments Received During Statutory Publication Period

On 10.1.2020, the application was published for public comment. During the three-week statutory publication period, 2 public comments submitted by individuals were received. One comment (**Appendix IIIa**) indicates no comment. The remaining

one (**Appendix IIIb**) is of the view that the Site could accommodate a number of village houses to meet villagers' requirements.

11. Planning Considerations and Assessments

- 11.1 The application is for redevelopment of the existing 2-storey house on the Site to a 2-storey house with an ancillary swimming pool. Compared with the existing house, the GFA (260m²) and BH (7.5m) of the proposed house remain the same. The Site falls within "V" zone which is intended 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. Although the proposed development is not entirely in line with the planning intention of "V" zone, the application is for redevelopment of the existing house on a house lot owned by the applicants. DLO/N, LandsD advises that the Mother Lot of the Site is a New Grant lot for private residential purpose restricted to a maximum GFA of 260m². DLO/N further advises that there is no Small House application on the Site and he has no comment on the proposed redevelopment on the Site.
- 11.2 The Site is located to the southeast of the village cluster of Kam Tsin Village. The proposed 2-storey house with the small ancillary swimming pool is not incompatible with the surrounding environment, which is rural in nature and dominated by village houses. Since the nature and scale of the proposed house is similar to the existing one, the proposed development would unlikely cause adverse traffic, environmental, sewerage, drainage, visual and landscape impacts on the surrounding areas. The concerned Government departments including C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD have no adverse comment on or no objection to the application.
- 11.3 There are two previous applications for house use at the Site and all were approved by the Committee as stated in paragraph 5. The nature and scale of the proposed house is similar to the existing house and there has been no material change in the planning circumstances of the areas since the approval of the last application.
- 11.4 There are two public comments received as stated in paragraph 10 above. In this regard, the planning considerations and assessments as stated above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraphs 9.1.8 and 10, the Planning Department has no objection to the application.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.9.2024, 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 submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory clauses

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

12.3 There is no strong reason to reject the application.

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 date when the validity of the permission should expire.
- 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 applicants.

14. Attachments

Appendix I	Application Form received on 3.1.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Replacement Pages of Application Form received on 8.1.2020
Appendix Ic	Further Information of 6.2.2020
Appendix Id	Further Information of 12.3.2020
Appendix II	Previous Applications
Appendices IIIa and IIIb	Public comments
Appendix IV	Advisory Clauses

Drawing A-1	Layout Plan
Drawings A-2 to A-5	Floor Plans and Section Plans
Drawing A-6	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**