

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/798

Applicant : 林志勳先生

Site : Lot 796 S.D in D.D. 84, Ha Shan Kai Wat, Ta Kwu Ling, New Territories

Site Area : 248.3m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Ping Che and Ta Kwu Ling Outline Zoning Planning (OZP)
No. S/NE-TKL/14

Zonings : (i) “Agriculture” (“AGR”) (about 96.5% of the Site)
(ii) “Village Type Development” (“V”) (about 3.5% 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 villager of Shan Kai Wat of Ta Kwu Ling Heung¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Ha Shan Kai Wat falling mostly within an area zoned “AGR” (about 96.5%) with a very minor portion zoned “V” (about 3.5%) on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ is a Column 1 use always permitted within the “V” zone, while ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use within the “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is vacant and covered with vegetation.

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	: 195.09m ²
Number of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m ²

¹ As advised by the District Lands Officer/North of Lands Department (DLO/N, LandsD), the eligibility of the applicant for Small House grant is yet to be ascertained.

- 1.3 The applicant indicates that the uncovered area of the Site will remain vacant. The Site is not served by any vehicular access. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.
- 1.4 The Site is the subject of three previous applications (No. A/NE-TKL/512, 583 and 609) submitted for the same use by the same applicant as the current application, which were rejected by the Rural and New Town Planning Committee (the Committee) of the Board between July 2015 and March 2019. Details of the previous applications are set out in paragraph 5.1.
- 1.5 In support of the application, the applicant has submitted an Application Form with attachment received on 23.5.2025 (**Appendix I**).

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**, as summarised below:

- (a) the applicant is an indigenous villager of Shan Kai Wat who is entitled for building Small House;
- (b) the Site is the only land that the applicant owns for building a Small House; and
- (c) Small House grant applications at Lots 796 S.B and 796 S.C (**Plan A-2a**) have been approved².

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 set of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5 Previous Applications

- 5.1 The Site is the subject of three previous applications (No. A/NE-TKL/512, 583 and 609) for proposed House (NTEH - Small House) submitted by the same applicant as the current application. All of the previous applications were rejected by the Committee between July 2015 and March 2019 mainly on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; land was

² According to the Small House grant applications at Lots 796 S.B and 796 S.C in D.D. 84 provided by LandsD, not less than 50% of the footprint of the Small Houses at these two lots falls within the “V” zone and the village ‘environs’ (‘VE’) of Ha Shan Kai Wat. Based on the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (**Appendix II**), planning permission for the Small House developments at these two lots would not be required.

still available within the “V” zone of Ha Shan Kai Wat; and it was considered more appropriate to concentrate Small House development close to the existing village cluster. Compared with the last application, there is no change in development parameters and footprint of the proposed Small House in the current application.

- 5.2 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

6 Similar Applications

- 6.1 There were seven similar applications falling within/partly within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Applications No. A/NE-TKL/373 and 374 were approved with conditions by the Committee on 6.1.2012 (i.e. before the formal adoption of a more cautious approach in considering Small House application by the Board since August 2015³) mainly on the considerations that the footprints of the proposed Small Houses fell entirely within the ‘VE’ and there was a general shortage of land in meeting the demand for Small House development within the “V” zone at the time of consideration; the proposed Small House developments were not incompatible with the surrounding rural environment; and the proposed developments were not expected to have significant adverse impacts on the surrounding area.
- 6.2 The remaining five applications (No. A/NE-TKL/511, 547, 548, 549 and 582) were rejected by the Committee between 2015 and 2018 mainly on the grounds similar to those as mentioned in paragraph 5.1 above.
- 6.3 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

7 The Site and Its Surrounding Areas (Plans A-2a to A-4)

- 7.1 The Site is:
- (a) vacant and covered with vegetation;
 - (b) located to the north of the village cluster of Ha Shan Kai Wat in “V” zone; and
 - (c) not served by any vehicular access.
- 7.2 The surrounding areas are rural in character comprising mainly fallow agricultural land and village houses. A stream course and a footpath are located to the east. A “Green Belt” (“GB”) zone is located to the northwest.

8 Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow

³ Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9 Comments from Relevant Government Departments

9.1 The application has been assessed against the assessment criteria at **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 - The Site	- 3.5%	100% 96.5%	- The footprint of the proposed Small House falls entirely within the “AGR” zone. - The Site of the proposed Small House falls largely within an area zoned “AGR” with a very minor portion zoned “V”.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	DLO/N, LandsD advises that the Site and the footprint of the proposed Small House fall within the ‘VE’ of Ha Shan Kai Wat.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)? Sufficient land in “V” zone to meet outstanding Small House applications?	 ✓	✓	<u>Land Required</u> - Land required for meeting Small House demand in Ha Shan Kai Wat: about 6.83 ha (equivalent to 273 Small House sites). The outstanding Small House applications of Ha Shan Kai Wat are 10 ⁴ while the 10-year Small House demand forecast for the same village is 263. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Ha Shan Kai Wat: about 1.71 ha (equivalent to 68 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective.

⁴ Among the 10 outstanding Small House applications, 4 fall within the “V” zone and 6 straddle or outside the “V” zone. For those 6 applications straddling or being outside the “V” zone, 1 of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Agricultural infrastructures such as road access and water source are available in the area. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The proposed Small House development is not entirely incompatible with the surrounding areas which comprises mainly fallow agricultural land and village houses (Plans A-2a, A-3 and A-4).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Environmental and sewerage impacts?		✓	The Director of Environmental Protection (DEP) advises that the application alone is unlikely to cause major pollution.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
10.	Traffic impact?	✓		The Commissioner for Transport (C for T) considers that although additional traffic generated by the proposed development is not significant, the permission of development outside the "V" zone will however set an undesirable precedent case for similar applications. The resulting cumulative adverse traffic impact has to be reviewed on a case-by-case basis in the future. She has no objection to the application as it only involves the construction of one

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Small House and considers that the application can be tolerated on traffic grounds.
11.	Drainage impact?		✓	The Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) has no objection to the application.
12.	Landscaping impact?		✓	The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L, PlanD) has no adverse comment on the application from the landscape planning perspective and advises that significant adverse impact on existing landscape resources within the Site arising from the proposed development is not anticipated.
13.	Local objections conveyed by District Officer?		✓	

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and Recommended Advisory Clauses are provided at **Appendices V** and **VI** respectively.

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

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

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

10 Public Comments Received During Statutory Publication Period

On 30.5.2025, the application was published for public inspection. During the statutory public inspection period, six public comments were received (**Appendix VII**). Five comments from

individuals (including two from villagers) and Kadoorie Farm & Botanic Garden Corporation object to the application mainly on the grounds that the proposed development will adversely affect the “GB” zone, greenery and natural habitats for local wildlife; it will exceed the capacities of the infrastructure and traffic in the village and cause safety hazard for pedestrians; it will increase the risk of flooding in the area as the Site is close to the main village drainage system; the construction will cause noise pollution which affects the living quality and well-being of the villagers; approval of the application will set an undesirable precedent and will raise concern about fairness and consistency of planning decisions since similar applications for the same use outside the “V” zone were rejected; and the application is not in line with the planning intention of “AGR” zone. The remaining comment from a member of the North District Council indicates no comment on the application.

11 Planning Considerations and Assessments

- 11.1 The application is for proposed Small House development at the Site mostly zoned “AGR” (about 96.5%) with a very minor portion zoned “V” (about 3.5%) on the OZP. 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 does not support the application from the agricultural perspective as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 The Site, located to the north of Ha Shan Kai Wat, is covered with vegetation. The proposed Small House is considered not entirely incompatible with the surrounding areas which are rural in character comprising mainly fallow agricultural land and village houses. CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective and advises that significant adverse impact on existing landscape resources within the Site arising from the proposed development is not anticipated. Other relevant government departments consulted, including C for T, DEP, CE/MN, DSD, CE/C, WSD and D of FS, have no objection to or no adverse comment on the application.
- 11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls within the ‘VE’ of Ha Shan Kai Wat. According to DLO/N, LandsD, the number of outstanding Small House applications for Ha Shan Kai Wat is 10 while the 10-year Small House demand forecast is 263. Based on PlanD’s latest estimate, about 1.71 ha (equivalent to 68 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Ha Shan Kai Wat is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among 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. In this regard, 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.
- 11.4 The Site is the subject of three previous applications (No. A/NE-TKL/512, 583 and 609) for proposed House (NTEH - Small House) submitted by the same applicant as the current application, which were rejected by the Committee between 2015 and 2019

mainly on the grounds as detailed in paragraph 5.1 above. There has been no significant change in planning circumstances since the previous applications were rejected.

- 11.5 There were seven similar applications falling within/partly within the same “AGR” zone in the vicinity of the Site. Two of them were approved in 2012 before the formal adoption of a more cautious approach by the Board. The remaining five applications (No. A/NE-TKL/511, 547, 548, 549 and 582) were rejected by the Committee between 2015 and 2018 mainly on the grounds as detailed in paragraph 6.2 above. The planning circumstances of the current application are similar to those of the rejected applications. Rejecting the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comments as detailed in paragraph 10 above, the government departments’ comments and the planning assessments 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 as detailed in paragraph 10 above, the Planning Department does not support the application for the following reasons:
- (a) 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. There is no strong planning justification in the submission for a departure from the planning intention; and
 - (b) land is still available within the “V” zone of Ha Shan Kai Wat 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.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.7.2029, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The Recommended Advisory Clauses are attached at **Appendix VI**.

13 Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

14 Attachments

Appendix I	Application Form with attachment received on 23.5.2025
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Proposed Small House Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” zone of Ha Shan Kai Wat
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
JULY 2025**