

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

**APPLICATION NO. A/NE-TKL/810**

**Applicant** : Mr. LAM John

**Site** : Lots 1160 and 1188 RP in D.D. 77, Ha Shan Kai Wat, Ta Kwu Ling, New Territories

**Site Area** : 293m<sup>2</sup> (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

**Zoning** : “Agriculture” (“AGR”)

**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 Heung, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Ha Shan Kai Wat falling within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘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 partly covered with grass.
- 1.2 Details of the proposed NTEH (Small House) are as follows:
- |                   |                        |
|-------------------|------------------------|
| Total Floor Area  | : 195.09m <sup>2</sup> |
| Number of Storeys | : 3                    |
| Building Height   | : 8.23m                |
| Roofed Over Area  | : 65.03m <sup>2</sup>  |
- 1.3 The applicant indicates that the uncovered area of the Site will remain vacant. The Site is accessible via a local track leading to Ping Che Road. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.
- 1.4 The Site is the subject of two previous applications (No. A/NE-TKL/365 and 569) submitted for the same use as the current application, which were approved with

conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.7.2011 and 25.8.2017 respectively. Details of the previous applications are set out in paragraph 5.1.

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

- (a) Application Form with attachments received on 18.7.2025 (Appendix I)
- (b) Further Information (FI) received on 15.8.2025\* (Appendix Ia)

*\* accepted and exempted from publication and recounting requirements*

## **2 Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia**, as summarised below:

- (a) the Site is the subject of previously approved planning applications. He was the applicant of the last approved application (No. A/NE-TKL/569)<sup>1</sup>; and
- (b) Lands Department (LandsD) is still processing his Small House grant application.

## **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 two previous applications for proposed House (NTEH - Small House). Application No. A/NE-TKL/365 submitted by a different applicant from the current application was approved with conditions by the Committee on 22.7.2011 (i.e. before the Board formally adopted a more cautious approach in considering Small House application since August 2015<sup>2</sup>) mainly on the considerations that the application generally met the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell within the village ‘environs’ (‘VE’) of Ha Shan Kai Wat Village and there was insufficient land within the “Village Type Development” (“V”) zone to meet the Small House demand at the time of consideration; the proposed development was not incompatible with other village houses in the vicinity; there were similar approved applications in the vicinity; and the proposed development would unlikely cause adverse

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<sup>1</sup> Although the applicant of the last application No. A/NE-TKL/569 was Mr. LAM Chu On, the name of the indigenous villager as shown on the application form was Mr. LAM John.

<sup>2</sup> 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.

impacts. The planning permission lapsed on 22.7.2015.

- 5.2 Application No. A/NE-TKL/569 was approved with conditions by the Committee on 25.8.2017 after the formal adoption of a more cautious approach by the Board mainly on sympathetic considerations that the Site was the subject of a previously approved application for the same use; and no significant change in the major planning parameters since the last approval. The validity of the planning permission was extended once, and lapsed on 25.8.2025.
- 5.3 Compared with the last approved application, there is no change in the development parameters and footprint of the proposed Small House in the current application.
- 5.4 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 are ten 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. Seven of them (No. A/NE-TKL/364, 403, 404, 482, 483, 484 and 485) were approved with conditions by the Committee between 2011 and 2014 mainly on the considerations similar to those as mentioned in paragraph 5.1 above.
- 6.2 The remaining three applications (No. A/NE-TKL/570, 751 and 572), which were not the subject of any previously approved applications for the same use, were rejected by the Committee in 2017 after the formal adoption of a more cautious approach by the Board mainly on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone and there was no strong planning justification for the departure from the planning intention; land was 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.
- 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 partly covered with grass;
  - (b) located to the south of the village cluster of Ha Shan Kai Wat in “V” zone; and
  - (c) accessible via a local track leading to Ping Che Road.
- 7.2 The surrounding areas are rural in character comprising mainly fallow agricultural land, village houses and parking of vehicles.

## 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 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?<br><br>- Footprint of the proposed Small House<br><br>- The Site   | -<br><br>-                                | 100%<br><br>100% | The footprint and the Site of the proposed Small House fall entirely within the “AGR” zone.   |
| 2. | Within ‘VE’?<br><br>- Footprint of the proposed Small House<br><br>- The Site   | 100%<br><br>100%                          | -<br><br>-       | The District Lands Officer/North, LandsD (DLO/N, LandsD) advises that the Site 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)?<br><br><br><br><br><br><br><br><br><br>Sufficient land in “V” zone to meet outstanding Small House applications? | <br><br><br><br><br><br><br><br><br><br>✓ | ✓                | <u>Land Required</u><br>- 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 <sup>3</sup> while the 10-year Small House demand forecast for the same village is 263.<br><br><u>Land Available</u><br>- 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) ( <b>Plan A-2b</b> ). |

<sup>3</sup> Among the 10 outstanding Small House applications, 4 fall within the “V” zone while 6 which straddle or are outside the “V” zone have not obtained 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) does not support the application from agricultural perspective. Agricultural infrastructures such as road access and water source are available. 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, village houses and parking of vehicles.   |
| 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) has no objection to the application. She advises that the application only involves the construction of one Small House, and considers that the application can be tolerated on traffic grounds. Although additional traffic generated by the proposed development is not significant, the permission of   |

|     | <u>Criteria</u>                                | <u>Yes</u> | <u>No</u> | <u>Remarks</u>   |
|-----|--|------------|-----------|--|
|     |  |            |           | development outside the “V” zone will however set an undesirable precedent case for similar application. The resulting cumulative adverse traffic impact has to be reviewed on a case-by-case basis in the future.   |
| 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 resources 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);
- (c) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

## **10 Public Comments Received During Statutory Publication Period**

On 25.7.2025, the application was published for public inspection. During the statutory public inspection period, two comments were received (**Appendix VII**). One comment from an individual expresses that the application should be considered as a fresh application in view of recent decisions of the Committee. 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 zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from the agricultural perspective as the Site possesses potential for agricultural rehabilitation.
- 11.2 The Site, located to the south of the village cluster of Ha Shan Kai Wat, is vacant and partly covered with grass. The proposed Small House is considered not entirely incompatible with the surrounding areas which are rural in character comprising mainly fallow agricultural land, village houses and parking of vehicles. CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective and advises that significant adverse impact on existing resources 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. Notwithstanding the above, the Site is the subject of two previously approved applications for the same use as the current application as detailed in paragraphs 5.1 and 5.2 above. Although the last planning approval under application No. A/NE-TKL/569 for proposed Small House was not submitted by the same applicant as the current application, the applicant clarifies that he should be the applicant of the previous application and his name was shown as the indigenous villager on the application form. As advised by DLO/N, LandsD, the relevant Small House grant application for the Site submitted by the current applicant is still being processed. In view of the above, sympathetic consideration could be given to the application.
- 11.4 There are ten similar applications falling within/partly within the same “AGR” zone in the vicinity of the Site, three of them were rejected by the Committee in 2017 after the

formal adoption of a more cautious approach by the Board mainly on the considerations as detailed in paragraph 6.2 above. The planning circumstances of the current application are different from those of the rejected similar applications which were not the subject of any previously approved applications for the same use.

- 11.5 Regarding the public comments as detailed in paragraph 10 above, the government departments' comments and 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 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 5.9.2029, 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**.
- 12.3 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 "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 orderly development pattern, efficient 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 the 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 applicant.



**14 Attachments**

|                     |   |
|---------------------|---|
| <b>Appendix I</b>   | Application Form with attachment received on 18.7.2025  |
| <b>Appendix Ia</b>  | FI received on 15.8.2025  |
| <b>Appendix II</b>  | Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories    |
| <b>Appendix III</b> | Previous Applications   |
| <b>Appendix IV</b>  | Similar Applications  |
| <b>Appendix V</b>   | Detailed Comments from Relevant Government Departments  |
| <b>Appendix VI</b>  | Recommended Advisory Clauses  |
| <b>Appendix VII</b> | Public Comments   |
| <b>Drawing A-1</b>  | Proposed Small House Layout Plan  |
| <b>Plan A-1</b>     | Location Plan   |
| <b>Plan A-2a</b>    | Site Plan   |
| <b>Plan A-2b</b>    | Estimated Amount of Land Available for Small House Development within the “V” zone of Ha Shan Kai Wat |
| <b>Plan A-3</b>     | Aerial Photo  |
| <b>Plan A-4</b>     | Site Photos   |

**PLANNING DEPARTMENT  
SEPTEMBER 2025**