

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

**APPLICATION NO. A/NE-TKP/2**

- Applicant** : Mr. James Herbert STEWART
- Site** : Government Land (GL) in D.D. 255, Pak Tam Au, Sai Kung North
- Site Area** : About 177m<sup>2</sup>
- Land Status** : GL
- Plan** : Approved To Kwa Peng and Pak Tam Au Outline Zoning Plan (OZP)  
No. S/NE-TKP/2
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Temporary Private Garden for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary private garden for a period of three years at the application site (the Site) falling within an area zoned “V” on the OZP (**Plan A-1**). The proposed temporary private garden entirely falls within GL immediately adjoining an existing house (New Territories Exempted House) which is always permitted within the “V” zone. However, according to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently vacant, which is partly covered with grass and partly hard-paved (**Plans A-4a** and **A-4b**).
- 1.2 The Site is accessible via a local track leading to Pak Tam Road (**Plan A-2**). According to the applicant, the proposed use, which adjoins House No. 16 at Pak Tam Au owned by himself, comprises two prefabricated storage sheds with a height of not more than 2m and a total floor area of about 15m<sup>2</sup> (**Drawing A-1**). While the remaining area will serve as a garden area, there is no existing tree within the Site. To avoid adverse water quality impact, no fertilizer, pesticide or chemical will be used at the Site. The Site will be enclosed by fence/wall due to privacy and safety reasons. The layout plan and previous Short Term Tenancy (STT) plan submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.

- 1.3 The Site is the subject of a previous application No. A/NE-TKP/1 for the same use submitted by the same applicant as the current application, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2025 (**Plans A-1** and **A-2**). Details of the previous application are set out in paragraph 4.1 below. Compared with the previous application, the current application involves smaller site area and total floor area, without provision of shading canopies and car parking spaces and additional filling of land.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Supplementary Planning Statement (SPS) received on 14.1.2026 (**Appendix I**)
  - (b) Supplementary Information (SI) received on 19.1.2026 and 21.1.2026 respectively (**Appendix Ia**)
  - (c) Further Information (FI) received on 9.2.2026\* (**Appendix Ib**)
  - (d) FI received on 13.2.2026\* (**Appendix Ic**)
  - (e) FI received on 27.2.2026\* (**Appendix Id**)
  - (f) FI received on 6.3.2026\* (**Appendix Ie**)

*\*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, SPS, SI and FIs at **Appendices I to Ie**, as summarised below:

- (a) the proposed use could provide a reasonable area surrounding the adjoining House No. 16 to prevent often happened random access by people (i.e. hikers and people awaiting for buses), feral cattle and wild boars for privacy and safety sakes. It is for private enjoyment without involving commercial gardening, landscaping and similar activities;
- (b) the proposed use in temporary nature will not prejudice the long term planning intention of the “V” zone. While there is other flat land within the “V” zone suitable for village expansion, the Site is unlikely to be used for Small House development, since it (i) falls within GL and outside village ‘environs’ (‘VE’)<sup>1</sup>; (ii) has limited access and is bordered by steep slope; and (iii) is located within upper indirect WGG (**Plan A-2**) subject to sewerage constraints. The Site is not planned for any alternative use in the foreseeable future. If there is any alternative use requiring the Site in the future, renewal application for the proposed use could simply be rejected after three years. Also, the Government could earn money by renting out the vacant GL and put the responsibilities of management and maintenance on the applicant;
- (c) the previous applications (No. A/DPA/NE-TKP/7 to 11 and 13) (**Plan A-2**) for proposed Small Houses within Pak Tam Au Village were rejected in 2012 as adverse impacts of water quality in the area may be resulted, whereas such

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<sup>1</sup> The Site involves minor encroachment of about 12.6m<sup>2</sup> onto the ‘VE’ of Pak Tam Au (**Plans A-1** and **A-2**).

consideration is not applicable to the current application as no permanent development with adverse water quality impact is involved;

- (d) the Site was previously used as a private garden covered by a STT No. 751 with a much larger site area of about 380m<sup>2</sup> (**Drawing A-2**) from 1990 to 2014, which was voluntarily terminated by the previous owner of the adjoining House No. 16 due to physical and financial reasons. The general configuration of private garden and paved area adjoining the house were already established before the said STT. Moreover, the previous private garden was not covered by planning permission, as it existed prior to the Gazette of draft Development Permission Area (DPA) Plan in 2011<sup>2</sup>. The applicant was informed by the Lands Department (LandsD) that planning permission would be needed before applying for a new STT (i.e. not reinstating of the previous STT), but his previous planning application was rejected by the Board;
- (e) there is a significant reduction in site area in comparison to the previous STT No. 751 and planning application No. A/NE-TKP/1 (**Plans A-1** and **A-2**), and the applicant is willing to further reduce the site area if the Board considers reasonable. While the proposed use at the Site meets all LandsD's basic requirements for STT, there are many renewed/transferred STT sites in Tai Po and Sai Kung with sizes in excess of 180m<sup>2</sup>. In addition, the GL adjoining House No. 14 at Pak Tam Au is covered by a STT (i.e. STTTP0128) (**Plan A-2**) with a size of about 132m<sup>2</sup> for private garden use, whereas the GL adjoining House No. 15 at Pak Tam Au does not appear to be covered by any STT;
- (f) while the Site itself currently does not involve any unauthorised structure, the applicant has been actively rectifying the irregularities in relation to the adjoining House No. 16 to address the concerns from LandsD and the Buildings Department, which are not relevant to the current application;
- (g) the applicant has made submission (**Appendix Ic**) to demonstrate that formation, operation and maintenance arrangements of the proposed use will not result in any material increase in pollution effect within the upper indirect WGG. In particular, no additional sewage will be generated by the proposed use and the proposed prefabricated storage sheds will be made in environmentally friendly manner (i.e. water-tight and highly rust-resistant). With the absence of development works, there will be no physical alteration of the Site. As such, no adverse landscape, visual, environmental, ecological, drainage, traffic and infrastructural impacts are anticipated and natural light infiltration will not be affected due to the proposed use; and
- (h) since the proposal does not involve any additional hard paving and alteration of ground levels, the existing surface runoff conditions will not be materially changed. Also, there will be no new drainage works at the Site.

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<sup>2</sup> According to the covering Notes of the OZP, no action is required to make the use of any land or building which was in existence immediately before the first publication in the Gazette of the notice of the draft DPA Plan on 7.1.2011 conform to the OZP, provided such use has continued since it came into existence.

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

As the Site involves GL only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) are not applicable to the application.

**4. Previous Application**

4.1 The Site is the subject of a previous application No. A/NE-TKP/1 for the same use submitted by the same applicant as the current application (**Plans A-1 and A-2**), which was rejected by the Committee on 10.1.2025 for the reasons of not being in line with the planning intention of the “V” zone and having no strong justification in the submission for a departure from the planning intention; and being excessive in size and scale and out of proportion to the adjoining house and having no strong justification for utilising a large piece of land in the “V” zone for private garden use. As compared with the previous application, the current application involves smaller site area (i.e. from about 326m<sup>2</sup> to 177m<sup>2</sup>, about -45.7%) and total floor area (i.e. from about 79m<sup>2</sup> to 15m<sup>2</sup>, about -81%), without provision of shading canopies of about 67m<sup>2</sup> and two private car parking spaces and additional filling of land.

4.2 Details of the previous application are summarised at **Appendix II** and its location is shown on **Plans A-1 and A-2**.

**5. Similar Application**

There is no similar application for the same use within the same “V” zone in the vicinity of the Site in the past five years.

**6. The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

6.1 The Site is:

- (a) currently vacant, which is partly covered with grass and partly hard-paved; and
- (b) accessible via a local track leading to Pak Tam Road.

6.2 The surrounding areas are predominantly rural in character comprising village houses, densely vegetated slopes, fallow agricultural land and unused land. To its southeast is a stream course and a small cluster of village houses at Pak Tam Au. To its west and further northeast are Sai Kung West Country Park and Sai Kung East Country Park respectively. To its north and south are densely vegetated slopes, fallow agricultural land and unused land.

**7. 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.

**8. Comments from Relevant Government Departments**

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices III** and **IV** respectively.

**9. Public Comments Received During Statutory Publication Period**

On 23.1.2026, the application was published for public inspection. During the statutory public inspection period, five public comments were received (**Appendix V**). Among them, one comment from a local villager supports the application on the grounds of better management and improved environment of the village; sustainable use of land; and enhancing the well-being of local community. Another comment from an individual queries whether the GL has been reinstated after the previous rejected application; and expresses that many proposed gardens appear to be used as parking lots. The remaining three comments from local villagers object to the application mainly on the following grounds:

- (a) the efficiency of land resource utilisation is low, since private garden use could only serve few people, whereas public greenery and community sharing areas should be secured instead;
- (b) while only simple chain fence was erected in the private garden under the previous STT, the proposed storage sheds under the current application are excessive in size. It is difficult to obtain STT with the same site area as the previous one. In addition, the current proposal is lack of sufficient information (e.g. any intention of car parking, extent of enclosure by fence/wall and any modifications to the existing paved area). Potential impacts on topography/stability, destruction of natural environment, loss of greenery, pest breeding and blockage of sunlight caused by the proposed use are also anticipated;
- (c) since the Site is adjacent to the local track, more local conflicts would be arisen due to narrower vehicular access with public and fire safety concerns;
- (d) in absence of Drainage Impact Assessment, there would be increased adverse drainage impacts and risks of flooding. In particular, the renovation of House No. 16 previously involved alteration of existing drainage and provision of a new drainage channel without permission and excavation permit;

- (e) House No. 15 at Pak Tam Au (**Plan A-2**) is being affected by the renovation of House No. 16, including unnecessary noise and nuisance from green amenity facilities, dripping from pipes and solar panels, open septic tank pipe covered with plastic sack, walls with tunnelling effect and blockage of sunlight, utilities beyond own private land, solar panels affecting runoff, trespassing on other's private land by construction workers, etc.; and
- (f) although the applicant has responded the government departments' comments on the previous application No. A/NE-TKP/1 at the Site, public comments have not been addressed. Besides, there is non-compliance with laws, regulations and guidance.

## 10. Planning Considerations and Assessments

- 10.1 The application is for proposed temporary private garden for a period of three years at the Site falling within an area zoned "V" on the OZP (**Plan A-1**). Although the District Lands Officer/Tai Po (DLO/TP) of LandsD has no objection to the application and advises that there is no Small House application on the Site received so far, the proposed use is not in line with the planning intention of the "V" zone, which is primarily intended for development of Small Houses by indigenous villagers and to provide land considered suitable for village expansion. Taking into account the above and the planning assessments below, there is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- 10.2 The proposed use comprises two prefabricated storage sheds with a height of not more than 2m and a total floor area of about 15m<sup>2</sup> (**Drawing A-1**), and the Site will be enclosed by fence/wall. Though the applicant advises that the Site is proposed for temporary private garden serving privacy and safety purposes for the adjoining House No. 16 at Pak Tam Au, the occupation of GL of about 177m<sup>2</sup> (i.e. about 2.7 times larger than the footprint of a standard Small House, i.e. about 65.03m<sup>2</sup>) (**Plan A-2**) for private enjoyment is considered excessive and disproportionate in terms of size and scale. There is no strong justification in the submission for utilising a large piece of land in the "V" zone for the proposed use.
- 10.3 The Site adjoins House No. 16 at Pak Tam Au, with a small cluster of village houses to its southeast (**Plan A-2**). It is currently vacant, which is partly covered with grass and partly hard-paved (**Plans A-4a** and **A-4b**). The proposed use is not incompatible with the surrounding areas which are predominantly rural in character (**Plans A-2** and **A-3**). The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective, and considers that significant adverse landscape impact on existing landscape resources arising from the proposed use is not anticipated.
- 10.4 While the Site falls within the upper indirect WGG (**Plan A-2**), the Chief Engineer/Construction of Water Supplies Department has no objection to the application subject to imposition of an approval condition to request the applicant to follow and implement preventive, control and mitigation measures identified in the accepted risk assessment report on pollution or contamination to the upper

indirect WGG. Other concerned government departments consulted, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application.

- 10.5 The Site is the subject of a previous application No. A/NE-TKP/1 for the same use submitted by the same applicant as the current application (**Plans A-1 and A-2**), which was rejected by the Committee in 2025 as detailed in paragraph 4.1 above. As compared with the previous application, the current application involves smaller site area and total floor area, without provision of shading canopies and car parking spaces and additional filling of land. However, the occupation of GL of about 177m<sup>2</sup> for the proposed private garden use under the current application is still considered excessive and disproportionate in terms of size and scale. The planning circumstances of the rejected previous application are similar to the current application. Rejecting the current application is in line with the Committee's previous decision.
- 10.6 Regarding the public comments as detailed in paragraph 9 above, the government departments' comments and the planning assessments above are relevant. For the concerns on the nuisance arising from the adjoining House No. 16 at Pak Tam Au, they are not relevant to the proposed use at the Site.

## **11. Planning Department's Views**

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments in paragraph 9 above, PlanD does not support the application for the following reasons:
- (a) the proposed use is not in line with the planning intention of the "V" zone, which is to provide land primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
  - (b) the proposed use at the Site is excessive in size and scale, and is out of proportion to the adjoining house. There is no strong justification in the submission for utilising a large piece of land in the "V" zone for the proposed use.
- 11.2 Alternatively, 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 three years until 13.3.2029. The following approval conditions and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) the implementation of preventive, control and mitigation measures on pollution or contamination to the upper indirect WGG as identified in the accepted risk assessment report within 9 months from the date of planning

approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 13.12.2026;

- (b) the proposed use should not cause any water pollution to the upper indirect WGG at any time during the planning approval period;
- (c) if the above planning condition (a) 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
- (d) if the above planning condition (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

#### Advisory Clauses

The Recommended Advisory Clauses are at **Appendix IV**.

### **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 12.3 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 period of which the permission should be valid on a temporary basis.

### **13. Attachments**

<b>Appendix I</b>	Application Form with SPS received on 14.1.2026
<b>Appendix Ia</b>	SI received on 19.1.2026 and 21.1.2026 respectively
<b>Appendix Ib</b>	FI received on 9.2.2026
<b>Appendix Ic</b>	FI received on 13.2.2026
<b>Appendix Id</b>	FI received on 27.2.2026
<b>Appendix Ie</b>	FI received on 6.3.2026
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan submitted by the Applicant
<b>Drawing A-2</b>	Previous STT Plan submitted by the Applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2026**