

Section 16 Application

**Proposed Temporary Private Garden
for a Period of 3 Years on Government Land
Adjoining Lot No. 369 in D.D. 255**

August 2024

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1. Introduction

- 1.1 This planning statement is in support of a Section 16 Application under the Town Planning Ordinance. This application proposes a temporary private garden for a period of 3 years on Government Land adjoining Lot No. 369 in D.D. 255. The Application Site is zoned "Village Type Development" ("Village" Zone) on the To Kwa Peng and Pak Tam Au Outline Zoning Plan Number S/NE-TKP/2 ("OZP").

2. The Application Site and Surrounding Area

Description of the Existing Application Site

- 2.1 The Application Site is the government land adjoining house number 16 Pak Tam Au (Lot 369 in D.D. 255). The Applicant is the owner of the village house at Number 16. The location of the Application Site is shown in **Figure 1**.



Figure 1: Location Plan

2.2 The Application Site was previously used as a garden, formerly STT No. 751, for the adjoining Lot No. 369 in D.D. 255 (16 Pak Tam Au). STT No.751 was granted in 1990 and terminated by the tenant (the previous owner of 16 Pak Tam Au) in 2014 for both physical and financial reasons. As the land was used as a garden there is an area that has been cleared previously and has since been maintained by grazing by the feral cattle and wild boars. Around the edges of the garden is a rock wall and more dense vegetation. The proposal is to use the already cleared portion for a garden, leaving the rock wall and more dense vegetation as it is. Please see **Photos 1-6** of the Application Site. The red dashed lines are only indicative approximations of the proposed temporary private garden boundary. Please refer to the Lot Plan and Site Plan for the exact boundary locations.



Photo 1: The photograph is taken inside the proposed temporary private garden, with the Pak Tam Au village access road to the left of the photograph. Steps lead down from the access road to the formed platform at the same level as the house which is on the right of the photograph, with scaffolding.



Photo 2: The photograph is taken from the Pak Tam Au village access road, showing how the temporary private garden would interface with the road. The red dashed line approximately indicates the boundary of the proposed temporary private garden.



Photo 3: The photograph is taken inside the proposed temporary private garden, with the Pak Tam Au village access road to the right of the photograph. Steps lead down from the access road to the formed platform at the same level as the house. The house is to the left of the photograph, with scaffolding. The level difference is indicated by the yellow line, and the proposed temporary private garden does not extend into the dense vegetation.



Photo 4: The photo is taken from the roof of the number 16 Pak Tam Au, looking north-west over the proposed temporary private garden towards the junction of Pak Tam Road and Pak Tam Au Village access road. The proposal is to have a nice garden area surrounding the house enclosed with a fence for safety and to prevent access by the feral cows and wild boars.



Photo 5: The photograph is taken from the first floor of number 16 Pak Tam Au looking south-west across the proposed temporary private garden. The mature tree is included within the proposed temporary private garden, while the rest of the dense vegetation is outside the proposed temporary private garden boundary.



Photo 6: The photograph is taken inside the proposed temporary private garden, looking to the south-east across the garden towards the adjacent houses. The fence is between the proposed temporary private garden of House number 16 Pak Tam Au and the garden of House 15 Pak Tam Au. There is a drop in the formation level of the site between Houses 16 and 15 of approximately 1.2 metres. Accordingly, the proposed temporary private garden would follow the retaining wall line between the two levels.

Description of the Surrounding Area

- 2.3 The Application Site is in the rural village of Pak Tam Au (Tai Po District), which is located within the Sai Kung East Country Park. The access to the site is via Pak Tam Road, residents may access the village by private vehicle with a Pak Tam Chung Barrier Permit. There is a bus stop at Pak Tam Au which is serviced by bus number 94 from the Sai Kung Bus Terminal, or mini-bus number 7 from Sai Kung, and bus number 96R from the Diamond Hill MTR station (on Sundays and Public Holidays).
- 2.4 Pak Tam Au is at the junction between Stages 2 and 3 of the Maclehole Trail, as well as where one end of the Pak Tam Country Trail meets the road, making it a popular place to start and finish hikes. There is also the Pak Tam Au Campsite nearby which is operated by the Agriculture, Fisheries and Conservation Department.

3. Background

History of the Application Site and Previous STT Submissions to Lands Department

- 3.1 The previous STT - for a similar (but slightly larger) size, and with a similar (but slightly different) boundary - was allocated to the Application Site from 1990 until 2014 when it was terminated by the tenant (the previous owner of 16 Pak Tam Au) for both physical and financial reasons. The previous STT covered an area of 380 m², and the plan of the STT is shown in **Figure 2**.

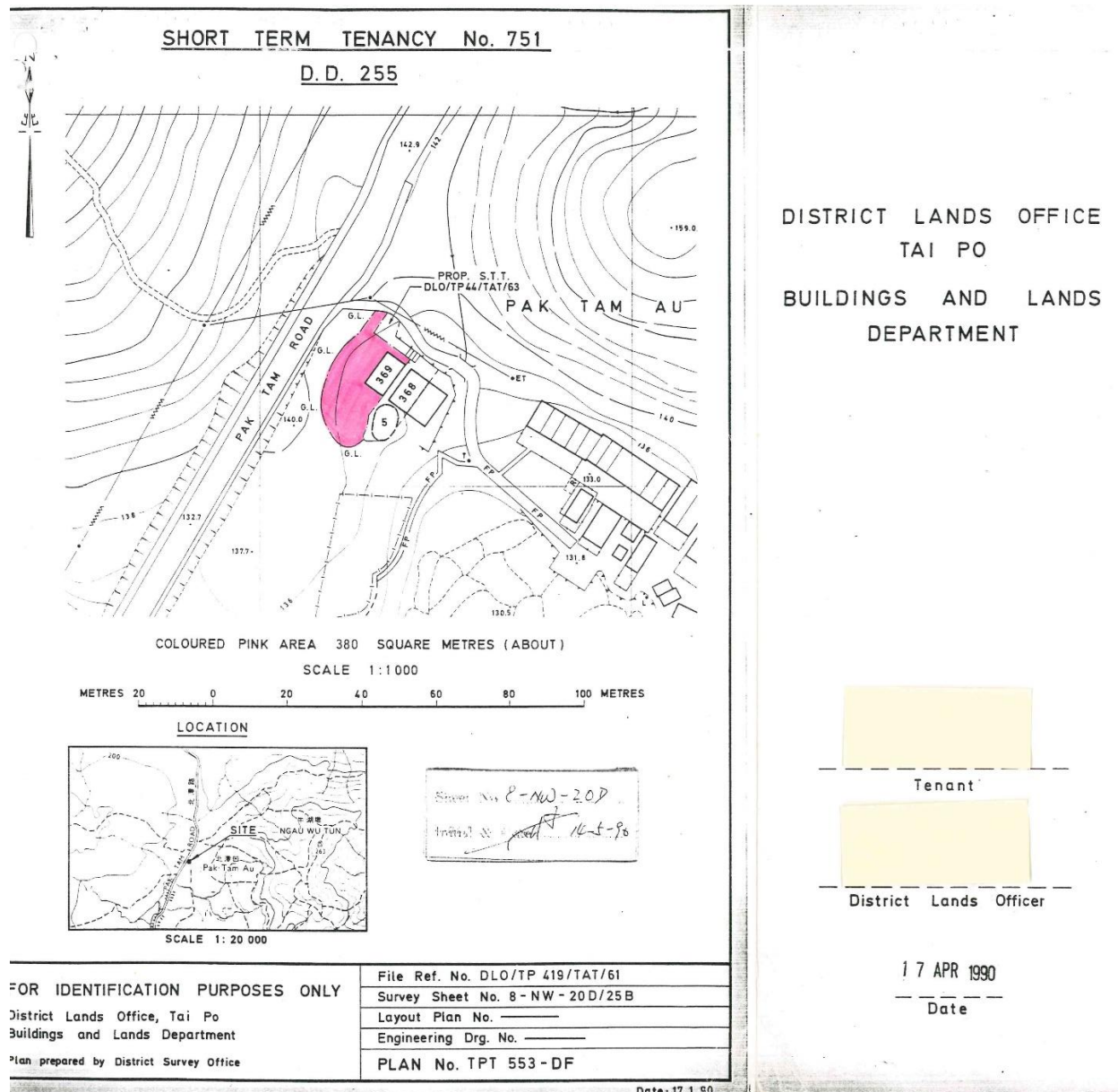


Figure 2: Previous STT No. 751 Plan.

- 3.2 As there was a previous STT issued on the site the Applicant thought that it would be straightforward to have a similar sized STT granted. After a number of submissions to Lands Department for the STT, and following lengthy discussions, the Applicant was informed by Lands Department that they would need to apply for Planning Permission first before re-applying for the STT. As a result, this application is submitted in order to obtain planning permission and facilitate the granting of the STT by the Lands Department.

4. The Planning Context

- 4.1 The Application Site is zoned “Village Type Development” on the To Kwa Peng and Pak Tam Au Outline Zoning Plan Number S/NE-TKP/2. The Column 1 use is “House (New Territories Exempted House only)”. The “garden” use would be an ancillary use to the NTEH.

Planning Intention

- 4.2 The Planning Intention states:

“The planning intention of this 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 the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board.”

The Explanatory Statement

- 4.3 The relevant excerpts from the Explanatory Statement are included below:

“5. THE PLANNING SCHEME AREA”

“5.3.1 The Pak Tam Au area, which falls entirely within the upper indirect water gathering ground (WGG), is located along Pak Tam Road at the western edge of Sai Kung East Country Park about 500m to the south of the To Kwa Peng area. It is accessible by vehicle via Pak Tam Road and by walking trails connected to Sai Kung East Country Park. There are bus and mini bus routes operating between Sai Kung Public Pier and Pak Tam Au.

5.3.2 With a scenic setting, the area is rural in character comprising mainly fallow agricultural land at the centre surrounded by shrubs and woodland. Pak Tam Au Village is a recognized village with a small cluster of village houses

up to three storeys in height in fair to good condition. A short local track connects these houses with Pak Tam Road.

5.3.3 The central part of the area comprises pockets of terraced fallow agricultural land overgrown with grass and shrubs surrounded to its north and south by slopes covered with woodland and dense natural vegetation. The woodland forms part of the well-established vegetation in Sai Kung East Country Park. Some graves are found at the small hill at the south-western corner of the area. There is a partially trained stream running across the central portion of the area from the slope in the east towards the west.

5.3.4 The tranquil rural character and woodlands of Pak Tam Au has a high landscape value which complements the overall natural quality and the landscape beauty of the surrounding Sai Kung East and Sai Kung West Country Parks. The area, with a section of Maclehoise Trail and Pak Tam Country Trail running across its northern and southern regions, is a popular spot for hikers.”

7. OPPORTUNITIES AND CONSTRAINTS

7.2.4 Landscape Character

“7.2.4.2 The enclosed, tranquil and rural character and woodlands of the Pak Tam Au area have high landscape value which complement the overall natural quality and the landscape beauty of the surrounding Sai Kung East and Sai Kung West Country Parks. Vegetation comprises Woodland and scrub on lower valley sides and the woodland forms part of well-established Vegetation in Sai Kung East Country Park. The recognized Pak Tam Au Village comprises pockets of terraced fallow agricultural lands surrounded by the vegetated slope with some areas already disturbed by vegetation clearance. The Pak Tam Au area is rated with “High” landscape value. The landscape comprises a juxtaposition of distinct landscape character areas. **Due to the high landscape sensitivity, the topography of the area and its distance away from other development, any large scale development of the area should be avoided.**”

7.2.6 Water Gathering Ground

The whole of the Pak Tam Au area is within the upper indirect WGG. To prevent contamination of waters which are designated for abstraction for potable water supply, any proposed development that will result in a material increase in pollution effect will not be encouraged.

7.2.7 Sewerage

There is no existing public sewer nor any committed/ planned sewerage project planned for the Area. At present, on-site discharge system such as septic tanks and soakaway pits are generally used in traditional villages. They would only satisfy the requirements of individual lots. Any increase in population or number of

visitors to the Area or further recreation/residential developments will require additional facilities.”

“8. GENERAL PLANNING INTENTION

8.1 *The Area forms an integral part of the natural system of the natural woodlands in the adjoining Sai Kung East Country Park with a wide spectrum of natural habitats including, inter alia, mature woodland, hillside shrubland, streamcourses, estuarine mangrove and mudflat, etc., which support some rare/uncommon flora and fauna of the Area and should be preserved and protected. **The general planning intention of the Area is to protect its high conservation and landscape value which complements the overall naturalness and the landscape beauty of the surrounding Sai Kung East and Sai Kung West Country Parks.***”

“9. LAND-USE ZONINGS

9.1 “Village Type Development” (“V”)”

“9.1.5 *In accordance with the Environmental, Transport and Works Bureau’s Technical Circular (Works) No. 5/2005, under the current administrative practice, development proposals/submissions that may affect natural streams / rivers, the approving / processing authorities at various stages of the development should consult and collate comments from AFCD and relevant authorities and incorporate relevant comments/advice as conditions of approval wherever possible. Accordingly, the Lands Department (LandsD) when processing Small House grant applications in close proximity to existing stream courses, should consult concerned departments including AFCD and the Planning Department to ensure that all relevant departments would have adequate opportunity to review and comment on the applications.*

9.1.7 *There is neither existing nor proposed public sewer in the Area. **For Small House development, the design and construction of such systems need to comply with relevant standards and regulations, such as the Environmental Protection Department (EPD)’s Practice Note for Professional Person (ProPECC PN) 5/93, for the protection of the water quality of the Area.***

9.1.8 *In addition, the Pak Tam Au area also falls entirely within the upper indirect WGG. For any village type development within the “V” zone, it should be demonstrated that the water quality within WGG will not be affected by the proposals. **In general, the use of septic tank and soakaway systems for sewage treatment and disposal is considered as an unacceptable means for new village developments located in WGGs. There should be demonstrably effective means (such as proper waste water treatment plant) to ensure that the effluent water quality is acceptable to concerned government departments.***”

Water Gathering Ground Policy – Waterworks Ordinance

- 4.4 According to the Waterworks Ordinance, it is an offence for any person who pollutes water within a water gathering ground. The water from Pak Tam Au is fed into the High Island Reservoir. As a result, it is stipulated in paragraph 9.1.8 of the Explanatory Statement of the OZP that for Small House Development in Pak Tam Au a proper waste water treatment plant would be required.

Existing Village House

- 4.5 The application is not for development, as the Applicant owns the existing village house. No additional sewerage will arise from the use of the area as a garden.

Temporary Use Clause

- 4.6 This application is being made because the proposed temporary use is greater than 3 years, as permissible under clause 11(C) in the Covering Notes of the OZP:

“11(C) Temporary use or development of land or building exceeding three years requires permission from the Town Planning Board in accordance with the terms of the Plan.”

5. Previous s.16 Planning Applications For Village Houses Rejected in Pak Tam Au Village

- 5.1 Section 16 Applications, numbers A/DPA/NE-TKP/7, 8, 9, 10, 11 and 13, were made in 2012 for New Territories Exempted Houses (NTEH)- Small House, on Government Land in DD 255 Pak Tam Au. The application was rejected by the Rural and New Territories Planning Committee. The reasons given for rejection are stated below:

*“(a) the proposed development **did not comply** with the interim criteria for consideration of application for New Territories Exempted House/Small House in the New Territories **as the site was located within the Upper Indirect Water Gathering Grounds where public sewer was not available and the applicant failed to demonstrate that the proposal would not cause adverse water quality impact on the area;***

*and (b) the approval of the application **would set an undesirable precedent** for other similar applications in the area, the **cumulative impact** of which would result in an **adverse impact of the water quality in the area.**”*

- 5.2 Section 17 Review Applications were made and also rejected as the Town Planning Board (“TPB”) members considered the reasons for rejection were reasonable. There was a S.17B Appeal to the Town Planning Appeal Board made in 2014, but this appeal was ultimately abandoned by the appellant.

5.3 The reasons for rejection in the above applications are not applicable to this current application. This application does not include any development therefore there would be no adverse impact on the water quality as a result of this private garden.

6. Land Administration

6.1 The temporary private garden is proposed for 326 m² of Government Land adjoining Lot No.369 in D.D.255 Pak Tam Au, Tai Po, New Territories.

6.2 The former STT No. 751 was terminated in 2014 and DLO has confirmed that a transfer of the previous STT No. 751 will not be considered by the DLO.

7. The Proposed Scheme

7.1 The Proposed Scheme is for a garden of 326 m² as shown on **Figure 3** below and approximately indicated in **Photo's 1-6** above. The garden and car parks would be for the sole use of the Applicant and would be fenced for security and privacy reasons.

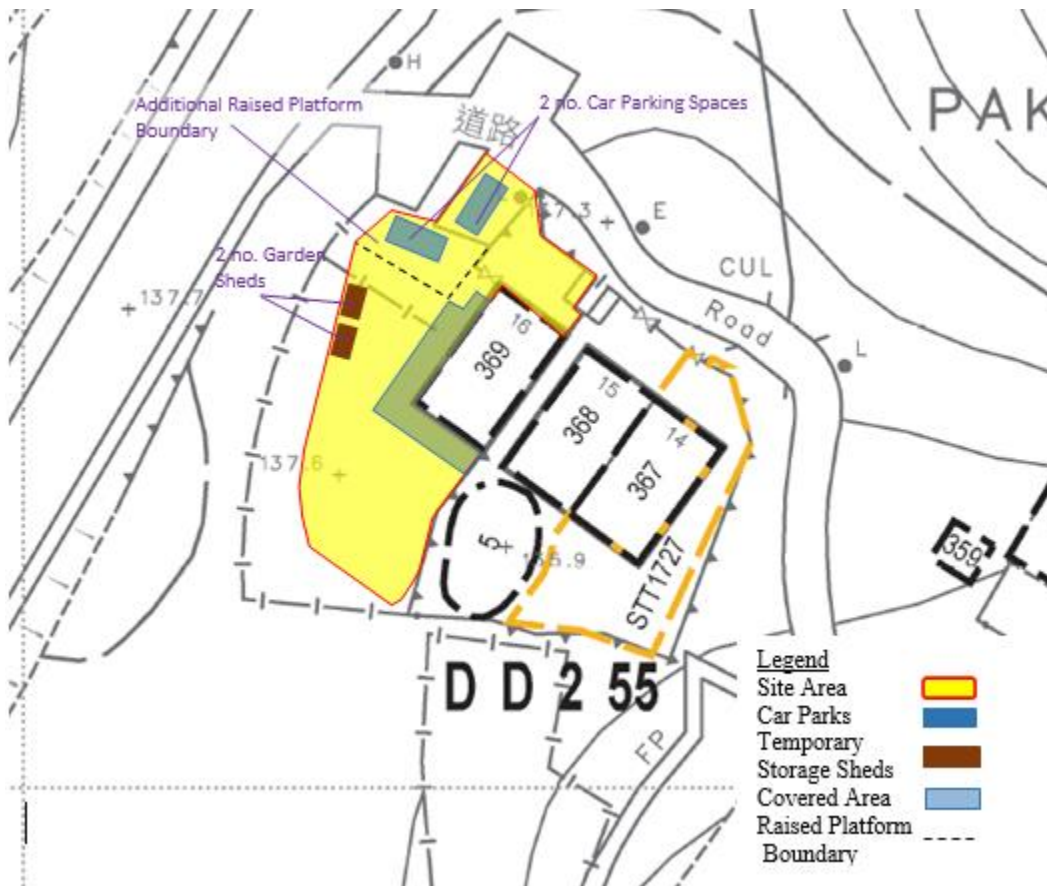


Figure 3: Boundary plan of the proposed temporary private garden, showing the location of the 2 car parks, the temporary storage shed locations and the covered area. The dotted line indicates the boundary of the additional raised platform.

- 7.2 The proposed scheme will include two car parks, as shown on the plan. There is an existing informal car park used by the applicant in the location of the car park situated closest to the Access Road. As shown in **Photo 3**, there is a level difference from the access road to the existing platform at the same level as the house. In order to facilitate a second car parking space within the temporary private garden, a small area needs to be raised to the level of the access road and existing car parking space to allow a vehicle to access a second car parking area. The proposed raised area is about 28m².
- 7.3 The plan in **Figure 3** also shows the location of two temporary storage sheds, each with the dimensions 2m x 3m x 2m (L x W x H). There is a proposed covered area along two sides of the house to provide shelter while entering and exiting the house. The covered area is 67 m².
- 7.4 A simple breakdown of the different areas shown in **Figure 3** is:

Garden Area	219 m ²
Covered Area	67 m ² : (not including Sheds), Height around 2.56m
Temporary Storage Sheds	12 m ² : [(Length 2m x Width 3m x Height 2.0m) x 2]
Car Parking	28 m ² : [(2m x 7m) x 2], Landfill of <20 cu.m.
 TOTAL Area:	 326 m ²

8. Planning Assessment and Justification

Previous STT on the Application Site

- 8.1 Between 1990 and 2014 there was an STT (STT No. 751) roughly on the same site. However, the previous STT covered a larger area of 380 m², the current application is only 326 m². Since the previous STT lapsed in 2014 there has been no alternative use for the site. There does not appear to be any plan to use the Application Site for any other purpose in the future.

Application Site Located Outside of Village Environs Boundary Plan

- 8.2 As the Land in the Application Site is all Government Land located outside of the Recognised Village Environs Boundary Plan (see **Figure 4**) it is unlikely that it will be used for NTEH Village Houses.

The "Village" Zone has Plenty of More Appropriate Land for Development

- 8.3 The Pak Tam Au "Village" zone is a large area, see **Figure 5**. There is plenty of land which is within both the "Village" zone and also the Recognised Village Environs Boundary for future expansion of the village. A substantial amount of land is flat grassland that would be much easier to develop additional NTEH village houses than the proposed Application Site, see **Figure 6 and Photos 7 and 8**.

Recent Applications for Village Houses in Pak Tam Au were Rejected by the TPB

- 8.4 As outlined in paragraphs 5.1. and 5.2 above, there have been a number of applications for NTEH made in Pak Tam Au which have been rejected. The primary reason has related to the potential adverse water quality impact on the area.
- 8.5 This indicates that it is unlikely for a large number of NTEH village houses to be built in the foreseeable future in Pak Tam Au. This may change should public sewers be extended to the area, but there does not seem to be any timeline for that to occur.
- 8.6 Therefore, it is unlikely that granting the temporary private garden for the Application Site would be the limiting factor on the future development of the Pak Tam Au village. The granting of the temporary private garden would not create adverse water quality impact as it is only for garden use and does not involve any development.

Vegetation and Landscaping

- 8.7 One mature tree will be retained inside the boundary of the proposed temporary private garden, the remainder of the mature trees are outside of the proposed boundary. There would be no tree felling as a result of this temporary private garden.

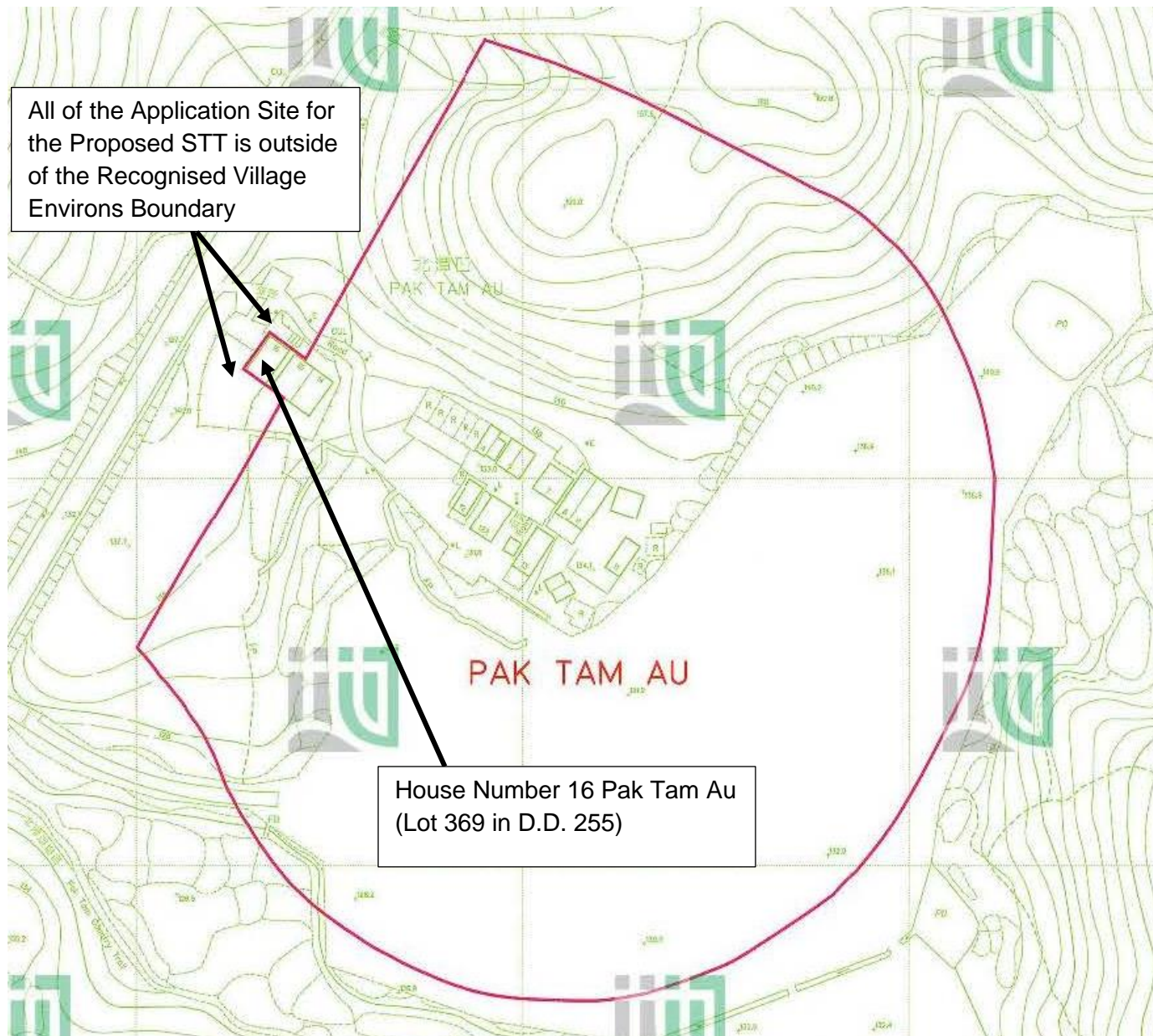


Figure 4: Recognised Village Environs Boundary Plan in Tai Po District (Plan No. TPM4762 – Dated 27/12/62).

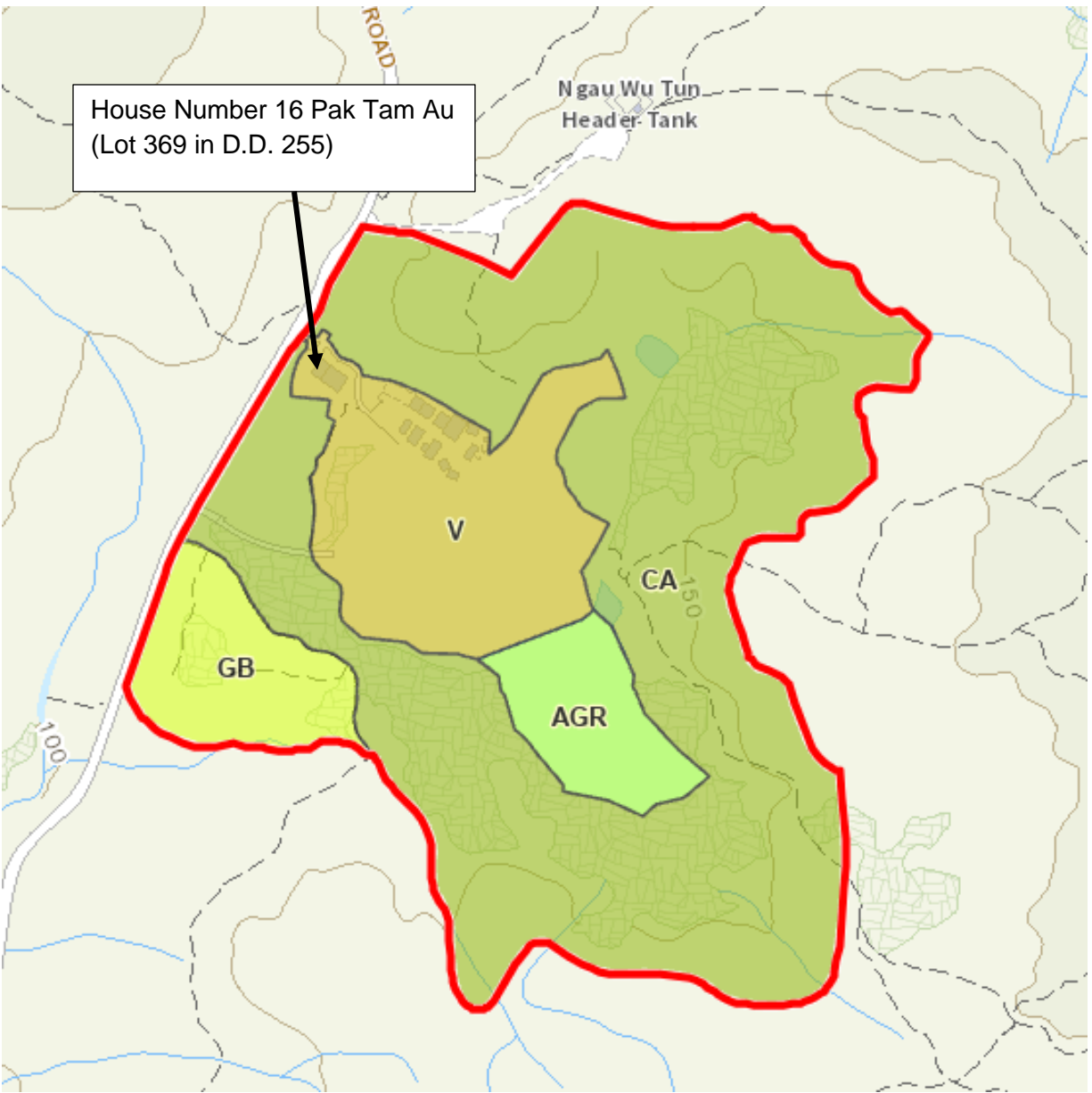


Figure 5: An excerpt of the To Kwa Peng and Pak Tam Au OZP No. S/NE-TKP/2, showing the large “Village” zone that has substantial areas of undeveloped land for future expansion.

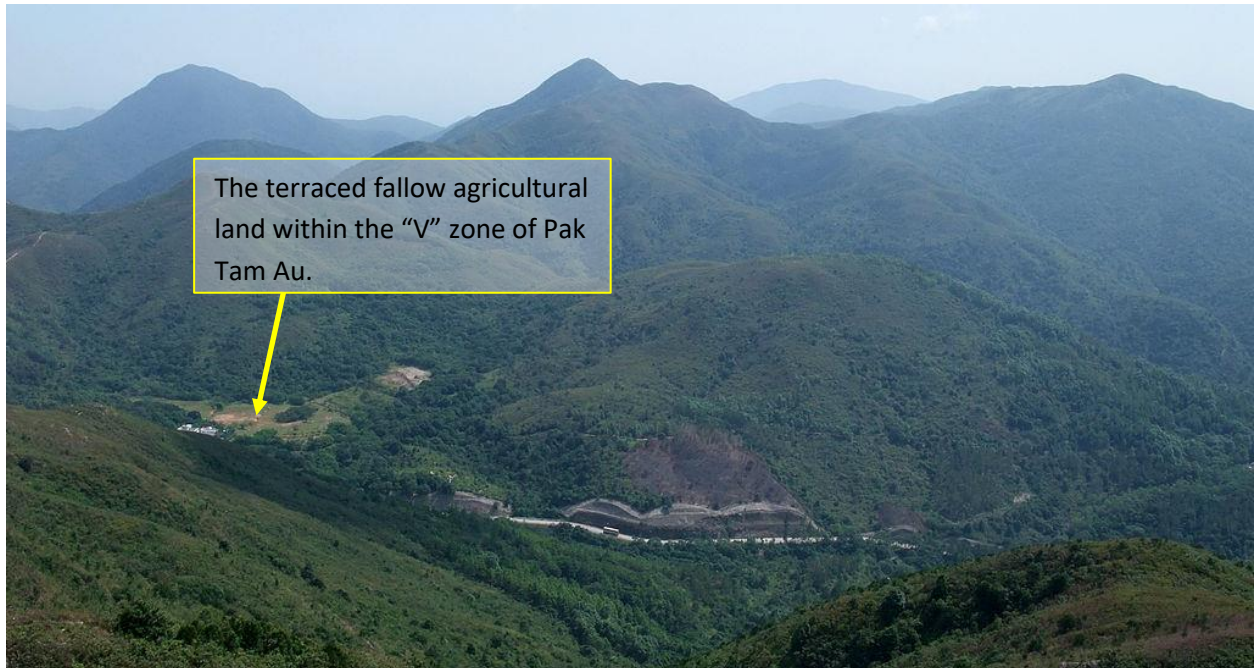


Photo 7: A photograph looking down towards Pak Tam Au, showing the large pockets of terraced fallow agricultural lands, that would be suitable for expansion of the Village, surrounded by the vegetated slope.



Figure 6: An aerial view of Pak Tam Au Village (taken from Google Maps on 24/6/2024) showing the large areas of developable land within the “Village” zone, which could be easily accessible with an extension of the existing village road.



Photo 8: A photo of the current situation at the large area of grasslands that would be suitable for NTEH Village house expansion. Taken from near the end of the existing village access road.

Other Houses in the Village have STT's for Garden Use

8.8 In the Pak Tam Au Village there are other NTEH Village Houses which have had STT's granted for garden use, including STT No. 1727 at 14 Pak Tam Au. The other STT's are within the Recognised Village Environs Boundary. This sets a precedent. As the Application Site is outside the Recognised Village Environs Boundary then it should be more appropriate to grant a temporary private garden use and an STT, than those STTs already issued.

Increased Revenue Generated by Granting the STT and No Other Planned Uses for the Application Site

8.9 There would be revenue generated by granting the STT. Since there is no other planned use for the site, and no negative impacts from granting the STT, it would seem that it would be better to have the site generating income on a STT. The Applicant would also be responsible for management and maintenance of the garden area.

DLO basic requirements for a STT application are all met

8.10 Lands Department have established some basic requirements for STT's which are outlined in the following table.

Lands Department Basic Requirements	Proposed Application
The government land concerned cannot be leased out separately to other persons (except the Applicant) given its location, configuration, size and the like;	The land concerned cannot be leased out separately to other persons. This is due to: its location outside the "Village Environs Boundary Plan"; the difficulty of constructing another house there due to the Upper Indirect Water Gathering Grounds'; and septic tank and soakaway systems being considered unacceptable.
There are no other uses of the government land in the short term (or even no long-term uses have been identified);	No other uses of the government land have been identified – neither long nor short term uses.
The application is for non-domestic purposes; and	The application is for a non-domestic purpose of "Garden" use.
The uses under application are either always permitted under the relevant OZP or in respect of which an application can be made to the TPB.	This s.16 application is to satisfy this point.

The STT is for a Temporary Use Which Can Be Cancelled at Any Time

8.11 The STT is for a temporary use that can be cancelled at any time should another use arise.

Application Site is Smaller than the Previous STT

8.12 The Application Site is smaller than the previous STTs and is comparable to other STTs in the area for garden use. The previous STT was for an area of 380 m², the proposed temporary private garden is for an area of 326 m². The proposed temporary private garden is not excessive.

9. Conclusion

9.1 This application is effectively the rejuvenation of the previous STT on the site, but for a similar but smaller area, and it is hoped that the TPB considers this application for a temporary private garden for a period of 3 years favourably.