

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

**APPLICATIONS NO. A/SK-PK/240 and 241**

- Applicants** : Lok Richard (Application No. A/SK-PK/240)  
Lok Paul (Application No. A/SK-PK/241)  
  
All represented by DeSPACE (International) Limited
- Sites** : Lot 470 S.B RP in D.D. 222 (Application No. A/SK- PK/240)  
Lot 470 S.B ss.3 in D.D. 222 (Application No. A/SK- PK/241)  
  
All in Pak Kong, Sai Kung, New Territories
- Site Areas** : 156.3m<sup>2</sup> (about) (Application No. A/SK-PK/240)  
  
138.1m<sup>2</sup> (about) (Application No. A/SK-PK/241)
- Lease** : Old Schedule Agricultural Lots held (Applications No. A/SK-PK/240  
under Block Government Lease (demised and 241)  
for agricultural use)
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No.  
S/SK-PK/11
- Zoning** : “Green Belt” (“GB”)
- Applications** : Proposed Houses (New Territories Exempted Houses (NTEHs) – Small  
Houses)

**1. The Proposal**

- 1.1 The applicants, indigenous villagers of Pak Kong Village, seek planning permission for development of one NTEH (Small House) at each of the two application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, within the “GB” zone, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Sites are the subjects/form part of the subject of three previous applications (A/SK-PK/64, 65 and 217) for the same use. Applications No. A/SK-PK/64 and 65 both for development of one NTEH (Small House) were rejected by the Rural and New Town Planning Committee (the Committee) on 6.2.1998 and Application No. A/SK-PK/217 for

development of three NTEHs (Small Houses) was rejected by the Board upon review on 12.6.2015. The proposed Small Houses are the same as that in the previous applications. The major development parameters are summarised as follows:

	<b>Application No. A/SK-PK/240</b>	<b>Application No. A/SK-PK/241</b>
<b>Site Area:</b>	156.3m <sup>2</sup>	138.1m <sup>2</sup>
<b>Covered Area:</b>	65.03m <sup>2</sup>	65.03m <sup>2</sup>
<b>Total GFA:</b>	195.09m <sup>2</sup>	195.09m <sup>2</sup>
<b>No. of Storeys:</b>	3	3
<b>Building Height:</b>	8.23m	8.23m

- 1.3 In support of the applications, the applicants have submitted the Application Forms (**Appendices Ia** and **Ib**) and Planning Statements dated 18.4.2017 (**Appendices Ic** and **Id**).
- 1.4 The plans for the proposed Small Houses submitted by the applicants are shown at **Drawings A-1a** to **A-5b**.
- 1.5 On 9.6.2017, 25.8.2017 and 10.11.2017, the Committee agreed to defer making a decision on the applications for two months each, as requested by the applicants, to allow time for preparation of further information (FI) to resolve comments from relevant government departments and consultation with the Indigenous Inhabitant Representative and Sai Kung Rural Committee to clarify land status and details about land available for Small House development in the area. The applicants have not submitted any FI in the deferment period. The applications are scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in section 5 of Planning Statements at **Appendices Ic** and **Id**. They can be summarized as follows:

- (a) the present planning applications warrant sympathetic consideration as they are inextricably affiliated with the interim criteria for considering application for New Territories Exempted House /Small House development;
- (b) the Sites are deemed to be a logical and spontaneous expansion of “Village Type Development” (“V”) zone. The Sites are contiguous to the “V” zone of Pak Kong Village and immediately next to the approved application site (Application No. A/SK-PK/16). The Sites are relatively flat with access road, new houses can be easily erected;
- (c) approval of these applications would not be an undesirable precedent for other similar applications within the “GB” zone;
- (d) the insignificant scale of the proposed Small House developments would not render any adverse environmental impact on the vicinity;
- (e) respect should be paid for the traditional rights of eligible indigenous male villagers to build Small House for their own use; and

- (f) there are similar approved applications in the Sai Kung area.

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

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

### 4. **Assessment Criteria**

The set of interim criteria for assessing planning application for NTEH/Small House development in the New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

### 5. **Town Planning Board Guidelines**

Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “Green Belt” Zone under section 16 of the Town Planning Ordinance’ are relevant to the applications (**Appendix III**). The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development in the “GB” zone;
- (b) applications for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. The scale and intensity of the proposed development including the plot ratio (PR), site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area; and
- (f) any proposed development on a slope or hillside should not adversely affect slope stability.

## 6. Previous Applications (Plans A-1 and A-2a)

- 6.1 The Site of Application No. A/SK-PK/240 is the subject of a previous application for NTEH (Small House) development (Application No. A/SK-PK/64). The Site of Application No. A/SK-PK/241 is the subject of a previous application for NTEH (Small House) development (Application No. A/SK-PK/65). The Sites also formed part of the subject for another previous application (A/SK-PK/217) for development of 3 NTEHs (Small Houses).
- 6.2 Applications No. A/SK-PK/64 and 65 were rejected by the Committee on 6.2.1998 on the grounds of not in line with planning intention of “GB” zone, undesirable effect resulted from an increase in population, sufficient land within “V” zone to meet the Small House demand and setting of undesirable precedent for similar applications within the “GB” zone.
- 6.3 Application No. A/SK-PK/217 for proposed 3 NTEHs (Small Houses) was rejected upon review by the Board on 12.6.2015 mainly on the grounds of not in line with planning intention of “GB” zone; land is still available within “V” zone in Pak Kong for Small House development; and setting of undesirable precedent for other similar applications within the “GB” zone.

## 7. Similar Applications

- 7.1 There are 7 similar applications (Applications No. A/SK-PK/16, 157, 214, 231, 234, 235 and 239) for Small House developments in the vicinity of the Sites on the Pak Kong and Sha Kok Mei OZP (**Plans A-1 and A-2a**).
- 7.2 Application No. A/SK-PK/16 for development of 10 NTEHs (Small House) and EVA was approved with conditions upon review by the Board on 11.8.1995 before the promulgation of the Interim Criteria in 2000. Planning permissions have subsequently been granted for development of NTEHs (Small House) at the same/part of the 10 approved Small House sites under Applications No. A/SK-PK/157, 231, 234 and 235.
- 7.3 Application No. A/SK-PK/214 for proposed NTEH (Small House) falling partly within “V” zone and partly within “GB” zone was approved with conditions by the Committee on 2.1.2015. The application was approved mainly on the grounds that sympathetic consideration may be given to the proposed Small House partly zoned “V”, which generally complies with the Interim Criteria and TPB PG-No. 10, and no significant adverse impact is anticipated.
- 7.4 Application No. A/SK-PK/239 was rejected by the Committee on 12.1.2018 mainly on the grounds of not in line with planning intention of “GB” zone; there is no strong planning ground to justify the application; land is still available within “V” zone in Pak Kong for Small House development; and setting of undesirable precedent for other similar applications within the “GB” zone.
- 7.5 Details of the applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

**8. The Sites and Their Surrounding Areas (Plans A-1 and A-2a, aerial photo on Plans A-3 and photos on A-4a and A-4b)**

8.1 The Sites are:

- (a) formed, generally flat and partly occupied by a container structure;
- (b) accessible by a paved track leading to Pak Kong Road to its northeast; and
- (c) within the Safety Buffer Zone of Pak Kong Water Treatment Works (PKWTW).

8.2 The surrounding areas have the following characteristics:

- (a) to its east and south is a plant nursery, Koon Lam Garden;
- (b) to its north is vegetated shrubs;
- (c) to its west are clusters of 3-storey village houses within the “V” zone; and
- (d) to its further east is the PKWTW.

**9. Planning Intention**

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

**10. Comments from Relevant Government Departments**

10.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone?  -Footprint of the NTEHs/Small Houses -Application sites		100%  100%	Within the “GB” zone.
2.	Within ‘VE’?  -Footprint of the NTEHs/Small Houses -Application sites	100%  100%		
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House		✓	• Land required to meet Small House demand: about 5.65 ha (equivalent to 226 Small House sites). The outstanding Small

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	demand?			House applications are 21 <sup>1</sup> while the 10-year Small House demand forecast is 205.  • Land available to meet Small House demand: about 0.978 ha (equivalent to 39 Small House sites)
4.	Compatible with the planning intention of “GB” zone?		✓	There is a general presumption against development within this zone. DAFC has no strong view on the applications from nature conservation point of view.
5.	Compatible with surrounding area/ development?	✓		The surrounding areas are rural in character with mature trees
6.	Within Water Gathering Ground?		✓	Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD) has no objection to the applications.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	Director of Fire Services (D of FS) has no in-principle objection to the applications. The applicants are reminded to observe the ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal applications referred by Lands Department.
9.	Traffic Impact?	✓		Commissioner for Transport (C for T) has reservation on the applications. Such type of developments should be confined within “V” zone as far as possible.

<sup>1</sup> Among the 21 outstanding Small House applications, there are 5 Small House applications straddling or outside the “V” zone that have already obtained planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Although additional traffic generated by the proposed developments is not expected to be significant, such type of developments outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. However, as the subject applications only involve two Small Houses, C for T considers that the applications can be tolerated unless they are rejected on other grounds.
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the applications.
11.	Landscaping Impact?	✓		<ul style="list-style-type: none"> <li>• Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has reservation on the applications from the landscape planning point of view.</li> <li>• The Sites are situated in an area dominated by garden nursery with containers and landscape plants in pots. Although the proposed Small Houses are not incompatible with the surrounding rural landscape character, the proposed stormwater works of the Sites might have impact on existing trees to the west of the Sites in consideration of the alignment of drainage channels. The landscape impact would likely be extended beyond the Sites.</li> <li>• Approval of the proposed Small Houses would encourage spreading of village houses into</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>the “GB” zone leading to cumulative deterioration of landscape character of the “GB” zone.</p> <ul style="list-style-type: none"> <li>Should the Board approve these applications, the following approval condition is recommended to be included in the permission:</li> </ul> <p>“submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board”.</p>
13.	Risk aspect	✓		Director of Environmental Protection (DEP) objects to the applications from chlorine risk perspective as part of the Sites encroach into the Safety Buffer Zone of PKWTW, which is an area with high chlorine risk.
14.	Local objection conveyed by District Officer/Sai Kung (DO/SK, HAD)?		✓	DO/SK, HAD has no comment on the applications.

10.2 Comments from the following government departments have been incorporated in the above paragraph. Other comments are at **Appendix V**.

- (a) C for T;
- (b) DEP;
- (c) D of FS;
- (d) CE/MS, DSD;
- (e) CE/Construction, WSD;
- (f) DAFC;
- (g) DO/SK, HAD;
- (h) CTP/UD&L; and
- (i) District Land Officer/Sai Kung (DLO/SK).

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Antiquities and Monuments Office, Leisure and Cultural Services Department;



- (d) Chief Building Surveyor/ NTE2 & Rail, Buildings Department; and
- (e) Chief Highway Engineer/New Territories East, Highways Department.

## **11. Public Comments Received During Statutory Publication Period**

- 11.1 On 25.4.2017, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 16.5.2017, a total of 3 and 8 public comments were received in respect of Applications No. A/SK-PK/240 and 241 respectively (**Appendix VI**). Two individuals of the public and Designing Hong Kong Limited object to the applications (A/SK-PK/240 and 241) mainly on grounds that the proposed developments are not in line with the planning intention; approval of the applications may set an undesirable precedent for other similar applications which will result in encroachment of the “GB” zone; there is no change in material circumstances as compared to the previously rejected application; and adverse environmental, traffic and risk impacts are anticipated.
- 11.2 5 individuals of the public support Application No. A/SK-PK/241 mainly on grounds that the vacant land is suitable for Small House development, which is to meet housing demand; and the Site falls within the ‘VE’ of Pak Kong where villagers have right to build Small Houses.

## **12. Planning Considerations and Assessments**

- 12.1 The proposed Small House developments are not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. No strong planning grounds and justifications have been provided in the submissions for a departure from the planning intention.
- 12.2 The Sites and the footprint of the proposed Small House fall entirely within the ‘VE’ of Pak Kong. According to DLO/SK, the estimated 10-year Small House demand forecast for the village is 226 (including 21 outstanding Small House applications) (or equivalent to about 5.65ha of land). It is estimated that about 0.978 ha (or equivalent to about 39 Small House sites) of land are available within the “V” zone of Pak Kong. Although there is insufficient land to fully meet the future Small House demand of the village in the long run, there is still land currently available within the “V” zone to meet the outstanding demand of 21 Small Houses. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster within the ‘V’ zone for orderly development pattern, efficient use of land and provision of infrastructures and services.
- 12.3 The Sites are located in the midst of the “GB” zone. The proposed developments are considered not incompatible with the surrounding environment which is mainly rural in character with clusters of village houses, tree groups and shrubs. CTP/UD&L, however, has reservation on the applications in that approval of the proposed Small House would encourage spreading of village houses into the “GB” zone leading to cumulative deterioration of landscape character of the “GB” zone.
- 12.4 According to the TPB PG-No.10, an application for new development in the “GB” zone will

only be considered in exceptional circumstances and must be justified with very strong planning grounds. For the current applications, there are no exceptional circumstances or strong grounds to justify the application. CTP/UD&L also advises that the proposed stormwater works of the Sites might have impact on existing trees to the west of the Sites in consideration of the alignment of drainage channels. The landscape impact would likely be extended beyond the Sites.

- 12.5 The Sites encroach into the Safety Buffer Zone of Pak Kong Water Treatment Works, which is an area with high chlorine risk. No information has been provided in the submission to demonstrate that the proposed developments would be acceptable from risk point of view. DEP objects to the applications from the risk perspective.
- 12.6 The Sites are the subject of previous applications (Applications No. A/SK-PK/64, 65 and 217) rejected by the Committee or the Board upon review mainly on the grounds of not in line with planning intention of the “GB” zone and setting of undesirable precedent. Since the rejection of the last Application No. A/SK-PK/217, there is no change in planning circumstances.
- 12.7 The applicants claim that there are similar approved cases for NTEHs. However, within the same “GB” zone in the vicinity of the Sites, most of the similar cases (Applications No. A/SK-PK/157, 231, 234 and 235) were approved given the exceptional circumstances that they are covered by the previous planning approval given for development of 10 Small Houses in 1999 under Application No. A/SK-PK/16 before the promulgation of the Interim Criteria. Another similar application No. A/SK-PK/214 was approved on grounds that sympathetic consideration was given to the proposed Small House partly zoned “V” and partly zoned “GB” and can generally meet the Interim Criteria and TPB PG-No. 10. As for the other applications mentioned by the applicants, they are not located in the same local area.
- 12.8 The public comments supporting and objecting to the applications are noted. The assessments in paragraphs 12.1 to 12.6 above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, the Planning Department does not support the applications for the following reasons:
- (a) the proposed Small House developments are not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There are no exceptional circumstances or strong planning grounds in the submissions for a departure from the planning intention;
  - (b) the proposed developments are not in line with the Town Planning Board Guidelines No. TPB PG-No.10 for ‘Application for Development within “GB” Zone’ in that there are no exceptional circumstances or strong planning grounds to justify the applications;

- (c) land is still available within the “V” zone of Pak Kong where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House developments close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services; and
- (d) approval of the applications will set an undesirable precedent for other similar applications within the “GB” zone. The cumulative effect of approving such applications will result in a general degradation of the landscape character of the “GB” zone.

13.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permission shall be valid until 26.1.2022, 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 approval condition and advisory clauses for each of the applications are also suggested for Members’ reference:

#### Approval Conditions

- (a) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (b) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board.

#### Advisory clauses

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

### **14. Decision Sought**

- 14.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the applications, 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.
- 14.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

### **15. Attachments**

<b>Appendices Ia-Ib</b>	Application Forms dated on 18.4.2017
<b>Appendices Ic-Id</b>	Planning Statements
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories

<b>Appendix III</b>	Town Planning Board Guidelines for Application for Development within “Green Belt” Zone (TPB PG-No. 10)
<b>Appendix IV</b>	Summary of similar applications for Small House
<b>Appendix V</b>	Government departments’ detailed comments
<b>Appendix VI</b>	Public comments
<b>Appendix VII</b>	Advisory Clauses
<b>Drawings A-1a-1b</b>	Site Plans submitted by the applicants
<b>Drawings A-2a-2b</b>	Location Plans submitted by the applicants
<b>Drawings A-3a-3b</b>	Dimension Plans submitted by the applicants
<b>Drawings A-4a-4b</b>	Vehicular Access Plans submitted by the applicants
<b>Drawings A-5a-5b</b>	Stormwater Drainage Plans submitted by the applicants
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a &amp; 2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a &amp; 4b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2018**