

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/251

- Applicant:** Mr. LOK Kenneth represented by Kenneth To & Associates Limited
- Site:** Lots 480 RP and 483 RP in D.D. 222, Pak Kong, Sai Kung, New Territories
- Site Area:** About 163.1m²
- Lease Status:** Old Schedule Agricultural Lots held under Block Government Lease (demised for agricultural use)
- Plan:** Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zonings:** (a) “Green Belt” (“GB”) (about 74%)
(b) “Village Type Development” (“V”) (about 26%)
- Application:** Proposed House (New Territories Exempted House (NTEH)) – Small House

1. The Proposal

1.1 The applicant, an indigenous villager of Pak Kong Village, seeks planning permission for the development of one NTEH (Small House) at the application site (the Site). According to the Notes of the OZP, NTEH development within “GB” zone requires planning permission from the Town Planning Board (the Board). The Site is subject of a previous application (application No. A/SK-PK/214) for the development of a Small House approved by the Committee on 2.1.2015.

1.2 The planning parameters of the proposed Small House are as follows:

Site Area:	163.1m ²
Covered Area:	65.03m ²
Total GFA:	195.09m ²
No. of Storeys:	3
Building Height:	8.23m

1.3 In support of the application, the applicant has submitted the Application Form with attachments dated 10.6.2019 (**Appendix I**).

1.4 The site plan submitted by the applicant is shown in **Drawing A-1**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**. They can be summarised as follows:

- (a) the applicant is an indigenous villager of Pak Kong Village and the proposed Small House at the Site is to meet his genuine housing need;
- (b) although part of the Site is zoned “GB” (i.e. 120.5m² or about 74%), it falls wholly within the Village Environs (VE) of Pak Kong. There is a general shortage of land in meeting the demand for Small House development in the “V” zone;
- (c) the proposed Small House development is in line with “Town Planning Board Guidelines for Application for Development Within Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10 at **Appendix III**). The proposed Small House would be provided with satisfactory sewage disposal facilities i.e. septic tank and access arrangement;
- (d) the proposed Small House development is in close proximity to existing village (**Plan A-2a**) and compatible in land use terms and development intensity with the surrounding village environment;
- (e) similar planning applications, i.e. Small House development in the same “GB” zone, were previously approved by the Board (applications No. A/SK-PK/16 and A/SK-PK/23 approved in 1995 and application No. A/SK-PK/157 approved in 2008);
- (f) the Site is flat and vacant and hence no major site formation works and tree felling will be required. The proposed development is small in scale and will not cause adverse traffic, environmental, landscape, drainage and sewerage impacts on the surrounding areas;
- (g) there has not been any material change in planning circumstances since the original permission (i.e. application No. A/SK-PK/214) was granted in 2015. The reason for the submission of a fresh s.16 planning application is because no renewal application was submitted before the expiry date of the planning approval; and
- (h) approval condition attached to the previous planning approval on the submission of Landscape Proposal was partially complied with on 23 July 2015. Landscape works will be implemented on the Site in due course.

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 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**

The 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’ (the TPB Guidelines) are relevant to this application. The relevant assessment criteria are summarised in **Appendix III**.

6. **Previous Application (Plans A-1 and A-2a)**

The Site is the subject of a previous planning application No. A/SK-PK/214, submitted by the same applicant of the current application, for proposed NTEH (Small House), which was approved by the Committee on 2.1.2015 subject to conditions including the submission and implementation of a landscape proposal and the provision of a septic tank, The applicant has partially complied with the condition through the submission of a landscape proposal. The planning permission lapsed on 2.1.2019.

7. **Similar Applications**

7.1 There are 10 similar applications for NTEH within the same “GB” zone. Six of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) or the Board and the remaining four were rejected by the Committee or the Board.

Approved applications

7.2 Applications No. A/SK-PK/16 for development of 10 NTEHs (Small Houses) and EVA and A/SK-PK/23 for development of one NTEH (Small House) were approved by the Committee or the Board with conditions before the promulgation of the Interim Criteria in 2000. Planning permissions have subsequently been granted for development of NTEHs (Small Houses) at the same/part of the 10 approved Small House sites (Application No. A/SK-PK/16) under Applications No. A/SK-PK/157, 231, 234 and 235.

Rejected applications

7.3 Applications No. A/SK-PK/217, 239, 240 and 241 were rejected upon review by the Committee or the Board, 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.

7.4 Details of the applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

8. The Site and its Surrounding Areas (Plans A-1 to A-2b, aerial photo on Plan A-3 , and photos on Plan A-4)

8.1 The Site is:

- (a) a piece of flat land that is vacant and not vegetated; and
- (b) within the VE of Pak Kong Village and Consultation Zone (CZ) of Pak Kong Water Treatment Works (PKWTW).

8.2 The surrounding areas have the following characteristics:

- (a) to the south east is a plant nursery, Koon Lam Garden;
- (b) to the south are 3-storey village houses under construction;
- (c) to the west and north are clusters of 3-storey village houses; and
- (d) to its further east across Pak Kong Road is PKWTW.

9. Planning Intentions

9.1 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.

9.2 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.

10. Comments from Relevant Government Departments

10.1 The application has been assessed against the assessment criteria in **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? - Application site - Footprint of the Small House	26% 24%	74% 76%	The remaining area of the Site and Small House footprint falls within “GB” zone (Plan A-2a)
2	Within ‘VE’? - Application site - Footprint of the NTEH/Small House	100% 100%		District Lands Officer/Sai Kung, Lands Department (DLO/SK) has no objection to the application. The applicant’s Small House application has been approved and the Building Licence has yet to be executed. The final Small House footprint is subject to survey.
3	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> Land required to meet Small House demand: about 5.55 ha (equivalent to 222 Small House sites). The outstanding Small House applications are 17¹ while the 10-year Small House demand forecast is 205². Land available to meet Small House demand: 51 Small House sites (about 1.283 ha).
4	Compatible with the planning intention of “GB” zone?		✓	<p>About 74% of the Site falls within “GB” zone. It is not in line with the planning intention of the “GB” zone in that there is a general presumption against development.</p> <p>Though not compatible with the planning intention of the “GB” zone, the Site is currently vacant and not vegetated. Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application.</p>
5	Compatible with Surrounding area/ development?	✓		The application is compatible with the surrounding development which is mainly rural in character with clusters of village houses. A previous application and similar applications for Small House developments were approved by the Committee or the Board (Plan A-2a).
6	Within Water Gathering Grounds?		✓	Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD) has no objection to the application.

¹ Among the 17 outstanding Small House applications, there are 8 Small House applications straddling or outside the “V” zone. For those 8 applications straddling or being outside the “V” zone, 3 of them have obtained valid planning approvals from the Board.

² The Indigenous Inhabitant Representative (IIR) of Pak Kong has not provided the 10-year Small House demand forecast for the village since 2015. The forecast provided by the IIR of Pak Kong in December 2014 is 205.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7	Encroachment onto planned road networks and public works boundaries?		✓	-
8	Need for provision of fire service installations and Emergency Vehicular Access?		✓	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 Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department.
9	Traffic impact?		✓	Commissioner for Transport (C for T) has reservation on the application and considers that the proposed development should be confined within "V" zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development 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. Notwithstanding the above, the application only involves one Small House, he considers the application can be tolerated unless it is rejected on other grounds.
10	Drainage impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application from a drainage maintenance viewpoint.
11	Sewerage impact?		✓	In view of the small scale of the NTEH, the application alone would unlikely cause any major impact.
12	Local objections?		✓	District Officer/Sai Kung, Home Affairs Department (DO/SK, HAD) has no comment on the application.
13	Landscaping impact?		✓	CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view. The Site appears vacant without vegetation cover, while patches of self-seeded overgrown of grass seem to be located near the Site. The proposed application is not incompatible to the landscape character of the surrounding environment. Significant changes and disturbance to the existing landscape resources are not anticipated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
14	Risk aspect		✓	Director of Environmental Protection (DEP) has no objection to the application from chlorine risk perspective related to the PKWTW. In view of the small scale of the proposed development, adverse environmental impact is not anticipated.

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

- (a) DLO/SK, LandsD;
- (b) D of FS;
- (c) C for T;
- (d) CE/MS, DSD;
- (e) CE/Construction, WSD;
- (f) CTP/UD&L, PlanD;
- (g) DEP; and
- (h) DAFC.

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department;
- (d) DO/SK, HAD; and
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

On 18.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.7.2019, two public comments were received from an individual of the public and Designing Hong Kong Limited (**Appendix VI**). The commenters object to the application mainly on grounds that the proposed development is not in line with the planning intention; there would be adverse landscape and traffic impacts; approval of the application may set an undesirable precedent which will result in a general degradation of the environment; and that the Audit Commission has recommended that the use of septic tanks be phased out.

12. Planning Considerations and Assessments

12.1 The application is for proposed development of one NTEH (Small House) at the Site falling within an area zoned “GB” (120.5m² or 74%) with the remaining part within an area zoned “V” (42.6m² or 26%). 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. While the proposed Small House development is not in line with the planning intention of the “GB” zone, about 26% of the Site falls within “V” zone which is intended for development of Small Houses by indigenous villagers.

- 12.2 Although a major portion of the Site falls within “GB” zone, the Site is currently vacant and not vegetated. The proposed development is not incompatible to the landscape character of the surrounding environment and significant changes and disturbance to the existing landscape resources are not anticipated. DAFC and CTP/UD&L have no comment on/objection to the application.
- 12.3 According to the main planning criteria of TPB PG-No. 10, planning application for NTEH with satisfactory sewage disposal facilities and access arrangements may be approved if the Site is in close proximity to existing villages and in keeping with the surrounding uses, and where development is to meet the demand from indigenous villagers. The applicant is an indigenous villager and the proposed development would unlikely result in sewerage, drainage and traffic impacts as DEP, DSD and C for T have no objection to the application. It is considered that application generally complies with the TPB PG-No. 10.
- 12.4 Planning permission has previously been granted for the Site (Application No. A/SK-PK/214) and the applicant has fulfilled the relevant approval condition regarding the submission of landscape proposal. The scale of the proposed NTEH development in terms of site coverage, building height and gross floor area is the same as the previously approved scheme. DLO/SK of LandsD advises that the Small House application has been approved and the Building Licence is yet to be executed. Sympathetic consideration may be given to the application.
- 12.5 The application generally meets the Interim Criteria in that the Site and the footprint of the proposed Small House falls within the ‘VE’ of Pak Kong and there is a general shortage of land in meeting the Small House demand in the “V” zone of Pak Kong Village. According to DLO/SK, the outstanding Small House applications are 17 while the estimated 10-year Small House demand forecast for the village is 205. Thus the total demand for Small House sites is 222. According to latest estimate by PlanD about 1.283 ha (or equivalent to about 51 Small House sites) of land are available within the “V” zone of Pak Kong Village.
- 12.6 Regarding the public comments objecting to the application, the assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 13 and taken into account the public comments mentioned in paragraph 12, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 2.8.2023, 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 condition of

approval and advisory clauses are also suggested for Members' reference:

Approval Condition

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**.

13.3 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 "GB" zone which is 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. No strong justifications have been provided in the submission for a departure from the planning intention; and
- (b) land is still available within the "V" zone of Pak Kong Village 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; and
- (c) approval of the application would set an undesirable precedent for other similar applications within the "GB" zone. The cumulative effect of approving such similar applications would result in the encroachment on the "GB" zone by development and a general degradation of the rural environment of the area.

14. Decision Sought

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses 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 application, Members are invited to advise what reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form dated 10.6.2019
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Town Planning Board Guidelines No. 10 for ‘Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance’
Appendix IV	Table showing similar applications for Small Houses
Appendix V	Relevant Government Departments’ comments on the application
Appendix VI	Public comments
Appendix VII	Advisory Clauses
Drawing A-1	Site Plan submitted by the applicant
Plan A-1	Location Plan
Plans A-2a and 2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2019**