

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/242

- Applicants:** Ho Chi Shing, Ho Chi Chau, Wellchamp Holdings Limited and American Food & Health Fiber Limited represented by DeSPACE (International) Limited
- Site:** Lots 1029, 1030, 1031 in D.D. 220 and Adjoining Government Land, Nam Shan, Sai Kung, New Territories
- Site Area:** 615.6m² (about) (including 420.51m² of Government Land)
- Land Status:** (a) Private Land (32%)
- Shall not be used for any purpose other than non-industrial purpose
- (b) Government Land (68%)
- Plan:** Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zoning:** “Village Type Development” (“V”)
- Application:** Proposed Social Welfare Facility (Residential Care Home for the Elderly) (RCHE)

1. The Proposal

- 1.1 The applicants seek planning permission for proposed development of social welfare facility (residential care home for the elderly) at the application site (the Site) which is zoned “V” on the OZP. According to the Notes of the OZP, ‘Social Welfare Facility’ is a Column 2 use within the “V” zone and planning permission from the Town Planning Board (the Board) is required. The Site is currently occupied by three New Territories Exempted Houses (NTEHs). Houses 1 and 3 are currently vacant whereas House 2 is being used for residential purpose (**Plans A-2a and A-4a**).
- 1.2 As proposed by the applicants, all the three existing 3-storey NTEHs at the Site will be converted to RCHE providing a total of 78 beds. The adjoining government land of 420.51 m² will be used for amenity purpose. The development parameters of the proposed RCHE are summarized as follows:

Site Area	615.6 m ² (including about 420.51 m ² Government land)
Covered Area	195.09 m ²
Total GFA	585.27 m ²
No. of Building Blocks	3
No. of Storeys	3
Plot Ratio	0.95
Building Height	8.23 m

1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application form dated 5.5.2017 (Appendix I)
- (b) Planning statement (Appendix Ia)
- (c) Further Information (FI) dated 2.6.2017 providing responses to departmental comments (*exempted from publication and recounting requirements*) (Appendix Ib)
- (d) FI dated 14.8.2017 providing responses to departmental comments (*exempted from publication and recounting requirements*) (Appendix Ic)
- (e) FI dated 13.12.2017 providing responses to departmental comments (*exempted from publication and recounting requirements*) (Appendix Id)

1.4 According to the applicants, the proposed RCHE is not provided with car parking and loading/unloading space. Use of public transport including taxis and minibuses is anticipated for delivery of goods and by visitors. Besides, the sewage generated by the proposed RCHE will be handled by the existing septic tank and soakaway pit system of the NTEHs.

1.5 The location plan, vehicular access plan, floor plans and section submitted by the applicants are shown in **Drawings A-1 to A-6**.

1.6 On 23.6.2017 and 13.10.2017, the Committee agreed to defer making a decision on the application for two months each, as requested by the applicants, to allow time for preparation of FI to resolve comments from relevant government departments. On 14.8.2017 and 13.12.2017, the applicants submitted FIs as mentioned in para. 1.3 above. The application is 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 application are detailed in section 5 of the Planning Statement at **Appendix Ia**. They can be summarised as follows:

- (a) there is pressing demand for RCHE due to aging population, longer life expectancy in Hong Kong, long waiting list and time for subsidized residential care homes;

- (b) the provision of RCHE facilities has long been insufficient to support the needs of elderly population in Sai Kung;
- (c) the application would not affect the supply of land for Small House development within the “V” zone since conversion of three existing NTEHs would not involve additional land within the “V” zone;
- (d) the proposed RCHE is self-sufficient and will be fenced off from the surrounding village houses, it is considered not incompatible with the surrounding land use;
- (e) the Site is accessible by vehicles via Nam Shan San Tsuen Road. No adverse traffic impact is anticipated;
- (f) the proposed development involves conversion of three NTEHs and minor alterations on the built drainage system. No significant drainage impact is anticipated; and
- (g) the proposed development complies with the statutory requirements of Social Welfare Department and licensing requirements in respect of management, health care services, building and fire safety.

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

For the portion of private land

- 3.1 The applicants are the sole “current land owners” for the private land portion of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

For the portion of government land

- 3.2 The “owner’s consent/notification” requirement 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. 31A) is not applicable on the government land portion of the Site.

4. Previous Application

There is no previous planning application at the Site.

5. Similar Application

There is one similar application (Application No. A/SK-PK/195) for converting the G/F and 2/F of two existing NTEHs for RCHE within the “V” zone on the approved Pak Kong and Sha Kok Mei OZP (**Plan A-1**). 1/F of the two concerned NTEHs had already been used as RCHEs at the time of application. The similar application was approved by the Rural and New Town Planning Committee (the Committee) on 30.3.2012 on the grounds that no additional land would be taken within the “V” zone from converting the

existing NTEHs for RCHE; the proposed development would not affect the supply of land for Small House development within the “V” zone; it was considered not incompatible with the surrounding land uses; and no adverse traffic, visual, infrastructural, drainage and environmental impacts on the locality were anticipated from the small scale development. Details of the application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

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

6.1 The Site is:

- (a) fenced off and currently occupied by 3 NTEHs;
- (b) within the ‘Village Environs’ (‘VE’) of Nam Shan Village; and
- (c) accessible via a local access (about 4m in width at its narrowest) connecting to Nam Shan San Tsuen Road and Po Lo Che Road. Po Lo Che Road is a single lane road of about 4m wide running in the north-south direction to the south-west.

6.2 The surrounding areas have the following characteristics:

- (a) the existing developments in the vicinity of the Site are predominantly 3-storey village houses; and
- (b) to its northwest is the “Green Belt” (“GB”) zone occupied by trees and shrubs.

7. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. 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 Board.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Sai Kung (DLO/SK):

- (a) the Site is located on private land namely Lots 1029, 1030, 1031 in D.D. 220, Nam Shan Village. The Lots shall not be used for any purpose other than non-industrial purposes according to respective Conditions of Exchange governing the Lots. The proposed RCHE use is considered acceptable under the lease;
- (b) the NTEHs at the Site were granted by way of Exchange. The land surrounding the Lots is government land. No permission has been given to occupation of government land. The government land within ‘VE’ of Nam Shan Village and “V” zone may be disposed under Small House policy to indigenous villagers for construction of Small House;
- (c) the 10-year Small House Demand Forecast for Nam Shan Village is 75 and the number of outstanding Small House applications falling within “V” zone in Nam Shan Village is 26 (**Plan A-2b**); and
- (d) the use of government land surrounding the Lots should require separate application for Short Term Tenancy (“STT”). Even if the applicants’ planning application is approved, there is no guarantee that their STT application by direct grant would be entertained.

Traffic

8.1.2 Comments of the Commissioner for Transport (C for T):

- (a) has reservation on the application from traffic aspects;
- (b) the applicant considers there is no net increase of traffic from the development of existing Small Houses into RCHE, however there is no supporting information on the applicants’ statement that “the existing small houses can generate 3 to 9 vehicles daily”; on the other hand it is considered that the estimate of 2 to 3 vehicles per day for delivery of goods and visitors of 78 beds of RCHE is not fully justified because i) there is only one minibus route between the Site and Sai Kung Town and the demand for public transport between Sai Kung Town and the urban areas is high at weekends and holidays; and ii) trip rates for delivery of goods and visitors, trip rates from the staff and the elderly in the RCHE should also be considered. The applicants should carry out traffic survey of other RCHEs to confirm the trip estimate;
- (c) no parking or loading/unloading facilities are provided in the proposed development. However, for the operation of the RCHE, loading/unloading activities for delivery of goods, picking up/drop off of the elderly are expected;
- (d) the applicants have quoted a number of planning cases of RCHE for reference but details of these cases are not provided for consideration. The traffic conditions of the roads to different

RCHE vary, the need for TIA and parking and loading/unloading provision should be established case by case. No TIA has been submitted to assess the traffic impact from the proposed development; and

- (e) the Site is only accessible from Po Lo Che Road on which complaints have been received on its traffic conditions. Although Application No. A/SK-PK/195 for RCHE development was approved in 2012, the traffic at Po Lo Che Road is found to be busy in recent traffic surveys particularly at sections with single lane two-way traffic. He has reservation on the conclusion that Po Lo Che Road can support the proposed development without detailed and objective assessment. He considers that the traffic impact should be assessed and any mitigation measures should be identified at planning stage. Therefore, he has reservation on the applicants' proposal to impose planning conditions on traffic aspects.

Environment

8.1.3 Comments of the Director of Environmental Protection (DEP):

it is noted that the existing septic tanks and soakaway pits for the current three houses will be used for the future RCHE. The development would unlikely result in insurmountable water quality problem and there is no comment from water quality perspective.

Urban Design and Visual

8.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

given the scale of the proposed development, it is considered not incompatible with the surroundings. No significant adverse visual impact on the surrounding is anticipated.

Landscape

8.1.5 Comments of the CTP/UD&L, PlanD:

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is occupied by 3 existing NTEHs with existing trees along the northeast, northwest and southeast of the application boundaries. According to the aerial photo, the Site is situated in an area of rural landscape character by village houses, tree groups and wooded "GB". The proposed use is not incompatible with the landscape character of the vicinity and significant changes or disturbances to the existing landscape resources arising from the proposed use are not anticipated; and

- (c) should the Board approve the application, the following landscape condition is recommended:

Submission and implementation of a tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Drainage

- 8.1.6 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

no in-principle objection to the application from a drainage maintenance viewpoint provided that adequate stormwater drainage facilities will be provided in connection with the proposed development to deal with the surface runoff of the Site without causing any adverse drainage impacts or nuisance to the adjoining areas.

Building Matters

- 8.1.7 Comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) there is no record of approval by the Building Authority (BA) in respect of the existing buildings at the Site and his department is not a position to offer comments on the suitability of the premises for the proposed use under the application;
- (b) for Unauthorized Building Works (UBW), if any, erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with his department's enforcement policy against UBW as necessary and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW, if any, on the Site under the Buildings Ordinance; and
- (c) the applicants should be reminded that the existing premises on the Site intended to be used for RCHE is required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

Fire Safety

- 8.1.8 Comments of the Director of Fire Services (D of FS):

- (a) no specific comment on the application subject to fire service installations and water supplies for fire fighting being provided to the satisfaction of his department and the statutory restrictions as stipulated in Residential Care Homes (Elderly Persons) Ordinance, Cap. 459 being observed;

- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
- (c) since Social Welfare Department is the licensing authority of RCHE, detailed requirements, among others, in relation to fire safety aspects will be issued by them upon formal application. In the meantime, the requirements as stipulated in the Code of Practice of RCHE should be observed.

Water Supply

8.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) no objection to the application;
- (b) existing water mains (**Plan A-2**) might be affected. The applicants are required to either divert or protect the water mains found on Site:
 - (i) if diversion is required, existing water mains inside the proposed Site are needed to be diverted outside the site boundary of the proposed development to lie in government land. A strip of land of minimum 1.5 metres in width should be provided for the diversion of the existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the applicants. The applicants shall submit all the relevant proposal to WSD for consideration and agreement before the works commence;
 - (ii) if diversion is not required, the following conditions shall apply:
 - a. existing water mains are affected (**Plan A-2**) and no development which requires resiting of water mains will be allowed;
 - b. details of site formation works shall be submitted to the Director of Water Supplies (DWS) for approval prior to commencement of works;
 - c. no structures shall be built or materials stored within 1.5 metres from the centre lines of water mains. Free access shall be made available at all times for staff of the DWS or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - d. no trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water mains. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the DWS. Rigid root barriers may be

- required if the clear distance between the proposed tree and the pipe is 2.5 metres or less, and the barrier must extend below the invert level of the pipe;
- e. no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5 metres around the cover of any valve or within a distance of 1 metre from any hydrant outlet; and
 - f. tree planting may be prohibited in the event that DWS considers that there is any likelihood of damage being caused to water mains.

Social Welfare Policy

8.1.10 Comments of the Director of Social Welfare (D of SW):

- (a) no adverse comment on the proposed RCHE subject to the applicants' compliance with all statutory and licensing requirements;
- (b) any licence application for the proposed RCHE development is not received for the time being; and
- (c) such support should not be seen as policy support for the development of the RCHE at nominal premium. Policy support at nominal premium for a particular project would only be considered when there is a concrete proposal /application from the applicants and each application would be considered on a case-by-case basis.

8.2 The following government departments have no comment on the application:

- (a) District Officer/Sai Kung, Home Affairs Department (DO/SK,HAD);
- (b) Chief Engineer (Works), Home Affairs Department (CE(Works), HAD); and
- (c) Chief Highway Engineer/NT East, Highways Department (CTE/NTE, HyD).

9. Public Comments Received During Statutory Publication Period

9.1 On 12.5.2017, the application was published for public inspection. During the three weeks of the statutory public inspection period which ended on 2.6.2017, 466 comments were received from a member of Sai Kung District Council and individuals of the public.

9.2 460 commenters including the member of Sai Kung District Council (**Appendix IIIa**) and other individuals of the public (sample at **Appendix IIIb**) object to the application for the following reasons:

- (a) the proposed development will overstrain traffic and other infrastructural capacity, which will further inflict pressure on the Nam Shan village areas;
- (b) there is insufficient parking facility to serve additional visitors associated

with the proposed development;

- (c) the proposed development is not necessary since there are other RCHEs available in Sai Kung;
- (d) nuisance, noise pollution and medical waste will likely affect the nearby residents during the stages of conversion and operation;
- (e) the access road leading to the RCHE is all private lots, lot owners can execute their right associated with resumption and blockage;
- (f) the location is not desirable as it is exposed to flooding; and
- (g) the design of the village houses is not suitable for RCHE use and the width of the existing road cannot serve as emergency vehicular access.

9.3 6 commenters support the application for the following reasons (**Appendix IIIc**):

- (a) the tranquil ambience of Sai Kung would be a good living space for the elderly. It can offer an alternative choice for the elderly to live in;
- (b) more diversified use of land can be incorporated;
- (c) maximize land resources; and
- (d) the proposed development can cater for the needs of community in particular for the elderly.

9.4 A full set of the public comments will be deposited at the meeting for Members' inspection.

10. Planning Considerations and Assessments

10.1 The application is for the conversion of 3 existing 3-storey NTEHs at the Site for RCHE. The Site falls within the "V" zone which is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development 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. While the residential nature of the proposed development is not incompatible with the surrounding developments which are mainly village houses and significant visual and landscape impacts arising from the conversion of NTEHs are not anticipated, the application is not in line with the planning intention of the "V" zone.

10.2 The applicants propose to use government land adjacent to the 3 existing NTEHs for amenity area of the proposed RCHE. The concerned area occupies about 420.51m² (or about 68%) of the Site area. DLO/SK advises that no permission has been given to the occupation of government land. The government land within 'VE' of Nam Shan Village and "V" zone may be disposed under Small House policy to indigenous villagers for construction of Small Houses (**Plan A-2b**). According to DLO/SK, the estimated 10-year Small House demand forecast for Nam Shan is 75 (including 26 outstanding Small House applications) (or equivalent to about 2.525ha of land). It is estimated that about 12.9 ha (or equivalent to about 516 Small House sites) of land are available within the "V" zone of Nam Shan. Although land is still available within the "V" zone to meet the outstanding Small House demand of Nam Shan, it is considered that land within "V" zone should primarily be reserved for development of Small Houses.

- 10.3 The Site is located at the fringe of Nam Shan Village and is accessible by vehicles via a local road leading to Nam Shan San Tsuen Road and Po Lo Che Road (**Plans A-1, A-2a and A-4b**). The concerned section of Po Lo Che Road is a single lane road of about 4m wide. C for T has reservation on the application as the traffic at Po Lo Che Road at sections with single lane two-way traffic is busy as revealed in recent traffic surveys. Complaints have been received on its traffic conditions. The trip rate estimated by the applicants is not fully justified as the demand for public transport between Sai Kung Town and the urban area is high and the trip rates from staff and elderly in the RCHE have not been taken into account. C for T has doubts on the applicants' conclusion that Po Lo Che Road can support the traffic of the proposed development without detailed and objective assessment. Besides, there is no provision of car parking spaces and loading/unloading facilities for the operational need of the RCHE. No TIA has been submitted to demonstrate that the proposed development is acceptable from traffic viewpoint. The applicants claim in the FI that similar applications including application No. A/SK-PK/195 were approved without the submission of TIA. C for T advises that the traffic conditions of the roads to different RCHE vary, the need for TIA and parking and loading/unloading provision should be established in individual cases. The project proponent is responsible to conduct suitable technical assessments, including TIA to support their developments.
- 10.4 There are 460 public comments objecting to the application, mainly on the grounds of possible adverse impacts to the surrounding areas to be generated by the proposed development. For the public comments on adverse traffic impact, the assessments in paragraph 10.3 above are relevant. As for the other public comments on drainage, sewerage and fire safety aspects, relevant government departments consulted including CE/MS, DSD, D of FS and DEP have no objection to/ adverse comment on the application.

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, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "Village Type Development" zone which is primarily for development of Small Houses by indigenous villagers. No strong justification has been provided in the submission to merit a departure from the planning intention; and
 - (b) the applicants fail to demonstrate that the proposed development would have no adverse traffic impacts on the surrounding areas.
- 11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.2.2022. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of a tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the provision of fire service installations and water supplies for fire-fighting to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (c) the submission of a Traffic Impact Assessment, and implementation of the road improvement works identified therein, to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and
- (d) the design and provision of parking facilities and loading/unloading spaces for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached 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 approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

13. Attachments

Appendix I	Application form dated 5.5.2017
Appendix Ia	Planning Statement
Appendix Ib	Letter dated 2.6.2017 providing FI
Appendix Ic	Letter dated 14.8.2017 providing FI
Appendix Id	Letter dated 13.12.2017 providing FI
Appendix II	Details of similar application
Appendices IIIa to IIIc	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan submitted by the applicants
Drawing A-2	Vehicular Access Plan submitted by the applicants
Drawings A-3 and A-4	Ground Floor Plans submitted by the applicants
Drawing A-5	First and Second Floor Plan submitted by the applicants
Drawing A-6	Section Plan submitted by the applicants
Plan A-1	Location Plan

Plans A-2a and A-2b
Plan A-3
Plans A-4a and A-4b

Site Plans
Aerial Photo
Site Photos

PLANNING DEPARTMENT
FEBRUARY 2018