

RNTPC Paper No. A/SK-PK/244
For Consideration
by the Rural and New Town
Planning Committee
on 1.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/244

- Applicant** : Wong Wai Yuk represented by Allgain Land Administrators Company
- Site** : Lots 1634 S.A RP, 1635 S.A and 1635 RP in D.D. 221, Sha Kok Mei, Sai Kung, New Territories
- Site Area** : About 169.05 m²
- Lease** : (a) Lot 1634 S.A RP - house lot subject to G.N. 365 of 1906 and Special Condition No.5 in G.N. 278 of 1911
(b) Lot 1635 S.A and 1635 RP – house and agricultural lot subject to G.N. 365 of 1906 as amended by G.N. S.114 of 1918 and Special Conditions No. 1,2 and 3 of G.N. 697 of 1909
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zoning** : “Residential (Group D)” (“R(D)”)

[No development including redevelopment for ‘Flat’ and ‘House’ (except ‘New Territories Exempted House’ (NTEH)) uses, shall result in a total development and/or redevelopment in excess of a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
- Application** : Proposed Two Houses (NTEHs)

1. The Proposal

- 1.1 The applicant seeks planning permission for development of two NTEHs at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, the proposed development of NTEHs is a Column 2 use within the “R(D)” zone which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject/part of the subject of two previous applications for proposed village-type house(s) development submitted by different applicants. Application No. DPA/SK-SKM/9 for proposed two 3-storey village-type houses at the Site and the adjacent government land was approved by the Rural and New Town Planning Committee (the Committee) with conditions on

6.11.1992. Application No. A/SK-PK/175 for proposed one 3-storey NTEH at the Site was approved with conditions by the Committee on 16.7.2010. Planning permissions given under the previous applications lapsed on 6.11.1996 and 16.7.2014 respectively.

- 1.3 The proposal under the current application involves two 2-storey NTEHs with total gross floor area (GFA) of 202.2m², building height of 7.62m and site coverage of 59.8%. The uncovered area of the Site is proposed for garden use. According to the applicant, the proposed GFA does not exceed the building right entitled under the lease. The major development parameters of the proposed development as compared to the last approved application are as follows:

	Application No. A/SK-PK/175 (a)	Current Scheme (b)	Difference (b) – (a)
Site Area	163.8 m ²	169.05 m ²	+5.25 m ²
Roof-over Area	65.03 m ²	101.1 m ²	+36.07 m ²
No. of Blocks	1	2	+1
No. of Storeys	3	2	-1
Building Height	8.23	7.62 m	-0.61 m
Total Floor Area	195.09 m ²	202.2 m ²	+7.11 m ²

- 1.4 The lot index plan and floor plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form dated 6.4.2018 (Appendix I)
 (b) Further information (FI) dated 16.5.2018 providing clarification (Appendix Ia)

2. Justifications from the Applicant

The applicant indicates that the development proposal for the two 2-storey NTEHs follows the conditions under the lease of the lots.

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. Previous Applications (Plans A-1 and A-2)

- 4.1 The Site is the subject/ part of the subject of 2 previous applications No. DPA/SK-SKM/9 and A/SK-PK/175. Application No. DPA/SK-SKM/9 for two 3-storey village-type houses was approved with conditions by the Committee on 6.11.1992 mainly on the grounds that the proposed development was small in scale and would not generate any adverse effect on the local infrastructure. Application No. A/SK-PK/175 for one 3-storey NTEH was approved with conditions by the Committee on 16.7.2010 mainly on the grounds that the proposed development is in line with the planning intention of “R(D)” zone; the Site had a building status under lease;

and no adverse impacts on the surrounding areas were anticipated. The planning permissions under the previous applications lapsed on 6.11.1996 and 16.7.2014 respectively.

4.2 Details of the previous applications are at **Appendix II**.

5. Similar Applications

5.1 There are 15 similar applications (No. A/SK-PK/14, 15, 21, 62, 66, 71, 83, 98, 110, 149, 154, 156, 158, 171 and 183) for house development in “R(D)” zone on the OZP (**Plan A-1**).

5.2 Among these applications, 13 applications (No. A/SK-PK/14, 15, 62, 66, 71, 83, 98, 110, 149, 154, 156, 158 and 183) were rejected by the Committee or the Board mainly on the grounds of being not in line with planning intention of “R(D)” zone which is to encourage upgrading or redevelopment of temporary domestic structures by properly designed permanent buildings; excessive development intensity; setting an undesirable precedent for similar applications within the “R(D)” zone; and creating adverse impacts on the infrastructural provision and landscape in the area.

5.3 Two applications No. A/SK-PK/21 and 171 were approved with conditions by the Committee on 15.9.1994 and 12.2.2010 respectively. Application No. A/SK-PK/21 for redevelopment of an existing single storey domestic structure into a two-storey village house was approved on the grounds that the site concerned was a building lot and the proposed development was in line with the planning intention of “R(D)” zone. Application No. A/SK-PK/171 involving a 2-storey house was approved on the grounds that the proposed development was in line with the planning intention of “R(D)” zone; development intensity conformed with the development restrictions; and there were no adverse impacts of the development on the surrounding areas.

5.4 Details of these applications are summarized at **Appendix III**.

6. The Site and its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4a to A-4c)

6.1 The Site is:

- (a) overgrown with grass and shrubs; and
- (b) accessible via a footpath to its east connecting to Po Tung Road.

6.2 The surrounding areas have the following characteristics:

- (a) to its east, southeast and northeast are existing village houses;
- (b) to its north is a large piece of vacant land overgrown with grass and shrubs;
- (c) to its southwest is a vegetated slope and to its further southwest is the Sai Kung Sung Tsun Catholic School (Primary and Secondary Sections) zoned “Government,

Institution and Community” (“G/IC”) on the OZP; and

- (d) to its east across Po Tung Road is the Sai Kung Jockey Club Town Hall.

7 **Planning Intention**

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

8 **Comments from Relevant Government Departments**

- 8.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) the Site comprises Lots No. 1634 S.A RP, 1635 S.A and 1635RP in D.D.221 (“the Lots”) and is not within any Village Environs of recognized villages;
- (b) according to the information from the Land Registrar (“the LR”), the original land grant documents of the mother lots of the Lots (i.e. 1634 and 1635 in D.D. 221) were lost and untraceable. According to the information from Tai Po New Grant Register, Lot 1634 and 1635 were both sold by public auction on 9.7.1917. Lot 1634 was a New Grant House Lot and Lot 1635 was a New Grant Agricultural Lot. The particulars of the Lots No. 1634 and 1635 in D.D.221 are summarized in the table below:

Lot	Area	User	Remarks
1634	1140 ft ² (105.91 m ²)	Building	Subject to General Conditions of G.N. 365 of 1906 & Special Conditions No.5 of G.N.278 of 1911, which permit 2-storey house development with 100% SC but no verandah is allowed
1635	0.03 acre (121.41 m ²)	Agricultural	Subject to Special Conditions No. 1, 2 and 3 of G.N.697 of 1909

- (c) according to the information from the LR, Lot 1634 in D.D.221 was sub-divided into Lots 1634 S.A ss.1, 1634 S.A RP and 1634 S.B all in D.D.221. Lot 1634 S.A RP is for the use of ‘Building’ with an area of 0.005 acre (20.23 m²). Also, the title chain of the Lot 1634 S.A RP is not clear;

- (d) although Lot 1635 was sold as ‘Agricultural’ land, it was recorded as 0.02 acre (80.94 m²) of ‘House’ land and 0.01 acre (40.47 m²) of ‘Agricultural’ land in the Government Rent Roll (“A” Book) with the appropriate level of rent payable for the said ‘House’ land and ‘Agricultural’ land. It would thus appear that lease modification had occurred at some point of time and previous legal advice suggested that G.N. 365 of 1906 as amended by G.N. S.114 of 1918 (which restricts development to 2/3 SC, two storeys and 25 feet in height but no verandah is allowed) would have been the governing restriction covering Lot 1635;
- (e) Chief Engineer/Mainland South, Drainage Services Department advised in 1994 that there was an existing twin-cell culvert to the north of subject lots and no structure shall be erected within 3m distance from the edge of the culvert in order to avoid overdue stress imposing on the culvert. Such requirement of ‘non-building area’ might have impact on the redevelopment within the Lots; and
- (f) from land administration point of view, his office has no in-principle objection to the application subject to the following comments:
 - (i) the permissible roof-over area for rebuilding over the Lots might be subject to the original occupation area of the old building substantiated by evidence (e.g. physical occupation of the old building, old aerial photos, old plan records, “A” Book records, ALS’s survey report etc.) and be acceptable to government. Therefore his office reserves comment on the permissible roof-over area of the proposed rebuilding at this stage;
 - (ii) the redevelopment proposal is required to be effected by way of Land Exchange. The applicant will be required to prove her title to the Lots; and
 - (iii) there is however no guarantee that such land exchange if applied will be approved by the government. Such Land Exchange application, if eventually approved, would be subject to such terms and conditions including payment of premium and an administrative fee as the government considers appropriate.

Traffic

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

he has no in-principle objection to the application from traffic engineering point of view, given that the proposed NTEHs would not require any vehicular access point and parking provision.

Environment

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

in view of the small scale of the proposed development, the application is unlikely to cause major environmental pollution.

Landscape

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

- (a) with reference to aerial photo, the Site is located in an area of rural landscape character dominated by farmland, woodland and village houses, with an area zoned "G/IC" nearby. According to site photos taken in April 2018, vegetation cover, which seems to be abandoned farmland, is found within the Site and no tree is observed within boundary of the Site;
- (b) the proposed NTEHs are not entirely incompatible with the landscape character of the surrounding environment. As significant adverse changes or disturbances to the landscape character and resources arising from the proposed development are not anticipated, she has no objection to the proposed NTEHs development from the landscape planning perspective;
- (c) according to Item 7 (Development Proposal) of the application form submitted by the applicant, a garden is proposed in the uncovered area. However, landscape proposal is not provided in this submission. According to the proposed house plan in this submission, it is noted that there is reasonable space available for planting; and
- (d) should the application be approved, the following approval condition is recommended:

the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Drainage

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

- (a) he has no in-principle objection to the application from a drainage maintenance point of view;
- (b) there are currently sewer and a stormwater drain located along Po Tung Road for making connection; and

- (c) a twin-cell box culvert is located besides the application site (**Plan A-1**). No structure shall be erected within 3m distance from the edge of the culvert in order to avoid undue stress imposing on the culvert.

Building Matters

- 8.1.6 Comments of the Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department (CBS/NTE2 & Rail, BD):
- (a) he has no comment on the application under Buildings Ordinance;
 - (b) all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance; and
 - (c) Authorized Person must be appointed for the site formation and communal drainage works referred to (b) above.

Fire Safety

- 8.1.7 Comments of the Director of Fire Services (D of FS):
- (a) he has no in-principle objection to the application; and
 - (b) 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.

Water Supply

- 8.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):
- (a) he has no objection to the application; and
 - (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Geotechnical

- 8.1.9 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):
- (a) he has no geotechnical objection to the application; and
 - (b) the applicant is reminded to make necessary submission to the DLO to verify if

the site satisfies the criteria for the exemption for site formation works as stipulated in PNAP APP-56. If such exemption is not granted, the applicant shall submit site formation plans to the Buildings Department in accordance with the provisions of the Buildings Ordinance.

District Officer's Comments

8.1.10 Comments of District Officer/Sai Kung, Home Affairs Department (DO/SK, HAD):

- (a) no comment on the application; and
- (b) local views should be fully considered.

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

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Chief Engineer (Works), Home Affairs Department.

9 Public Comments Received During Statutory Publication Period

On 13.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 4.5.2018, a total of 2 public comments were received from the School Principal of the Sai Kung Sung Tsun Catholic School (Primary Section) and an individual of public (**Appendix IV**). They object to/raise concern on the application mainly on the grounds of adverse traffic and noise impacts on the surrounding areas arising from the proposed development.

10. Planning Considerations and Assessments

- 10.1 The application is for proposed development of 2 NTEHs at the Site. The Site falls within an area zoned "R(D)" on the OZP. The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed two 2-storey NTEHs are in line with the planning intention of the "R(D)" zone for low-rise, low-density residential development.
- 10.2 The proposed NTEHs development is considered not incompatible with the character of the surrounding areas mainly occupied by village houses and abandoned farmland (**Plan A-2**). No adverse traffic, drainage, noise, environmental and landscape impacts are anticipated on the surrounding areas. Concerned government departments including C for T, DEP, CE/MS of DSD, DAFC and CTP/UD&L have no adverse comments on/objection to the application.
- 10.3 DLO/SK, LandsD advises that the Site comprises private lots with building status under the lease. The applicant claims in the FI in **Appendix Ia** that she is entitled to build house with a total roof-over area of about 101.17 m² and 2 storeys height under the lease. In this regard, DLO/SK has

no adverse comment. The proposed development of NTEHs with GFA of 202.2 m² is within the development right under the lease conditions. DLO/SK has also confirmed that the subject development could be processed as NTEHs should planning permission be given.

- 10.4 The Site is the subject of two previous applications No. DPA/SK-SKM/9 for proposed two 3-storey village-type houses and A/SK-PK/175 for proposed one 3-storey NTEH at the Site. The previous applications were approved by the Committee mainly on the grounds that the proposed development was in line with the planning intention of “R(D)” zone; the Site has a building status under the lease; and no adverse impacts on the surrounding areas were anticipated. Approval of the application is in line with the Committee’s previous decisions.
- 10.5 Regarding the public comments objecting to/raising concern on the application, the assessment in paragraph 10.2 above is relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and taking into account public comments in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **1.6.2022**, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of landscape proposal 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 V**.

- 11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition and advisory clauses, 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 applicant.

13. Attachments

Appendix I	Application form dated 6.4.2018
Appendix Ia	FI from the applicant dated 16.5.2018
Appendix II	Previous applications
Appendix III	Similar applications for House Development in “R(D)” zone on the OZP
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Lot index plan submitted by the applicant
Drawing A-2	Floor plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**