

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/293

- Applicant** : Mr. TSE Kit Wang Solomon represented by Mr. PANG Hing Yeun
- Site** : Lot 293 S.B ss.2 in D.D. 221 and Adjoining Government Land (G.L.),
Sha Kok Mei, Sai Kung, New Territories
- Site Area** : About 124.2m² (including G.L. of about 21.8m² or 18%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP)
No. S/SK-PK/11
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, an indigenous villager of Sha Kok Mei certified by the Indigenous Inhabitant Representative (IIR) of the village, seeks planning permission to build a NTEH (Small House) at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use in “REC” zone which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently vacant and covered with shrubs (**Plan A-4**). Details of the proposed Small House development are as follows:
- | | | |
|------------------|---|----------------------|
| Total Floor Area | : | 195.09m ² |
| No. of Storeys | : | 3 |
| Building Height | : | 8.23m |
| Roofed Over Area | : | 65.03m ² |
- 1.3 Layout of the proposed Small House and septic tank submitted by the applicant is at **Drawing A-1**. The uncovered area of the Site is proposed as circulation area.
- 1.4 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**) which was received on 21.12.2023.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form at **Appendix I**. They can be summarised as follows:

- (a) the Site is the only piece of land owned by the applicant that can be applied for Small House development. The proposed development would allow better use of the land resources to resolve housing problem;
- (b) Sha Kok Mei is a village resided by indigenous villagers of different clans, including the Tses (謝氏), the Chus (朱氏), the Laus (劉氏), the Poons (潘氏) and the Wais (韋氏) etc. Therefore, there is a competitive demand for Small House land in the village;
- (c) the proposed Small House is within the village 'environs' ('VE') of Sha Kok Mei. There are existing village houses in the vicinity of the Site and the proposed Small House is considered compatible with the surrounding development. There are also similar approved applications nearby such as No. A/SK-PK/181 and 192; and
- (d) the proposed Small House is small in scale. There will be no filling of land nor tree felling required, and there are existing drainage channels near the Site. Environmental impact on the surrounding area is not anticipated. The applicant is committed to adhere to relevant Government guidelines and comments to ensure no environmental impact arising from the proposed development.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the private land within the Site. Detailed information would be deposited at the meeting for Members' inspection. For the portion of GL, the requirements 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. 31B) are not applicable.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of the Interim Criteria promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Application

There is no previous application covering the Site.

6. Similar Applications

6.1 There are a total of 14 similar applications (No. A/SK-PK/4, 6, 7, 10 to 13, 58, 59,

113, 119, 181, 192 and 282) at 12 sites for Small House development in the vicinity of the Site within the same “REC” zone. Among which, nine applications (No. A/SK-PK/4, 6, 7, 10 to 13, 58 and 59) were considered and approved with conditions by the Rural and New Town Planning Committee (the Committee) prior to the first promulgation of the Interim Criteria on 24.11.2000 mainly on the consideration that the sites fell within the ‘VE’ of Sha Kok Mei Village and the proposed developments were compatible with the character of the surrounding developments which were primarily village-type houses.

6.2 After the promulgation of the Interim Criteria in 2000, five similar applications were considered, of which two applications (No. A/SK-PK/181 and 192) were approved with conditions by the Committee in 2011 and 2012 mainly on the consideration that the sites were the subject of previously approved applications (i.e. No. A/SK-PK/58 and 59). Subsequently, the Board has adopted a more cautious approach to consider Small House applications since August 2015¹. Three applications (No. A/SK-PK/113, 119 and 282) were rejected by the Board on review/by the Committee in 2002 and 2023 mainly on the grounds that the proposed development was not in line with the planning intention of “REC” zone, and land was still available within the relevant “V” zone for Small House development. Review of the Committee’s decision to reject the latest application (No. A/SK-PK/282) is tentatively scheduled for consideration at the Board’s meeting on 23.2.2024.

6.3 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-2a**.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2a and photos on Plans A-3, A-4a and A-4b)

7.1 The Site is currently vacant and covered with shrubs. It is located entirely within the ‘VE’ of Sha Kok Mei but separated by a stream course from the main village cluster of Sha Kok Mei Village to the west. It is accessible via a footpath leading to Tai Mong Tsai Road.

7.2 The surrounding areas are rural in character comprising mainly village houses and shrubland. The Site is immediately adjoined by several village houses to the north which were approved prior to the promulgation of Interim Criteria in 2000, a piece of vegetated vacant land to the east, and a stream course to the west and south. To the further northeast of the Site within the same “REC” zone are an outdoor garden venue and a recreational development with four padel tennis courts (**Plan A-4b**).

8. **Planning Intention**

The planning intention of “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments

¹ Among others, in considering whether there is a general shortage of land in meeting Small House demand, the Board has put more weighting on the number of outstanding Small House applications as provided by LandsD.

may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 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? - Footprint of the proposed Small House - The Site	- -	100% 100%	The footprint and the Site of the proposed Small House fall within an area zoned “REC”.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	The footprint and the Site of the proposed Small House fall entirely within the ‘VE’ of Sha Kok Mei. The District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD), has no objection to the application.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?	(no information on 10-year Small House demand)		<u>Land Required</u> Land required to meet Small House demand in Sha Kok Mei: about 1.23 ha (equivalent to 49 Small House sites). The number of outstanding Small House applications is 49 ² while DLO/SK has no information on the 10-year Small House demand forecast for Sha Kok Mei as the IIR has not provided the figure since 22.12.2008 ³ . <u>Land Available</u> Land available to meet Small House demand in Sha Kok Mei: about 4.89 ha (equivalent to 195 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “REC” zone?		✓	

² Among the 49 outstanding Small House applications, 41 fall within the “V” zone and eight (including the Site) falls outside/straddling the “V” zone. For those eight applications falling outside/ straddling the “V” zone, one have obtained valid planning approval from the Board.

³ According to LandsD’s record, the 10-year forecast (i.e. from 2009 to 2018) for Small House application provided by the IIR of Sha Kok Mei village as at 22.12.2008 was 260.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding areas/developments?	✓		The surrounding areas are predominately rural in character comprising village houses and shrubland.
6.	Within WGG?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic Impact?	✓		The Commissioner for Transport (C for T) advises that the proposed Small House development should be confined within the "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 that, she considers that the application can be tolerated on traffic grounds as it only involves the development of one Small House.
10.	Drainage Impact?		✓	The Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application from drainage maintenance viewpoint.
11.	Sewerage Impact?		✓	The Director of Environmental Protection (DEP) and CE/MS, DSD have no adverse comment on the application.
12.	Landscaping Impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no adverse comment on the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Geotechnical Impact?		✓	The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the application.
14.	Local objection conveyed by DO?		✓	The District Officer (Sai Kung), Home Affairs Department (DO(SK), HAD) has no comment on the application.

9.2 Comments from the following government departments have been incorporated in the above paragraph. Detailed comments are at **Appendix IV**.

- (a) DLO/SK, LandsD;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) CE/C, WSD;
- (d) D of FS;
- (e) C for T;
- (f) CE/MS, DSD;
- (g) DEP;
- (h) CTP/UD&L, PlanD;
- (i) H(GEO), CEDD; and
- (j) DO(SK), HAD

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

- (a) Chief Engineer (Works), HAD; and
- (b) Chief Highway Engineer/New Territories East, Highways Department.

10. Public Comment Received During Statutory Publication Period

On 29.12.2023, the application was published for public inspection. No public comments were received during the statutory publication period.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House development at the Site which falls within an area zoned “REC” on the OZP. The proposed Small House development is not in line with the planning intention of the “REC” zone which is primarily for recreational developments for the use of the general public. The “REC” zone encourages the development of active and/or passive recreation and tourism/ ecotourism. Uses in support of the recreational developments may be permitted subject to planning permission. However, there is no strong justification in the applicant’s submission for a departure from the planning intention of the “REC” zone to build a Small House at the Site.

- 11.2 Regarding the Interim Criteria (**Appendix II**), the Site and the footprint of the proposed Small House falls entirely within the 'VE' of Sha Kok Mei. According to DLO/SK, LandsD, the number of outstanding Small House applications for Sha Kok Mei is 49 while he has no information on the 10-year Small House demand forecast as the IIR of Sha Kok Mei has not provided the figure since 22.12.2008. Since August 2015, the Board has formally adopted a more cautious approach in considering applications for Small House developments. Amongst others, in considering whether there is a general shortage of land in meeting the Small House demand, the Board has put more weighting on the number of outstanding Small House applications provided by LandsD. Based on the latest estimate by PlanD, about 4.89 ha of land (equivalent to 195 Small House sites) is available within the "V" zone of Sha Kok Mei for Small House development. In this regard, land available within the "V" zone is sufficient to meet the outstanding Small House applications. As such, it is considered more appropriate to concentrate Small House developments within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.3 The Site is currently vacant and covered with shrubs. While several three-storey village houses are found to the north of the Site (**Plans A-2a and A-3**) and the proposed development may not be incompatible with the surrounding uses, there are vacant land to the east of the Site. There are also some existing/emerging recreational uses to the east of the Site in the same "REC" zone. The Site and the land in its vicinity, with relatively flat topography and easy accessibility are considered suitable for developing a variety of land extensive recreational uses.
- 11.4 Regarding technical aspects, relevant government departments including C for T, CTP/UD&L of PlanD, CE/MS of DSD, DEP, CE/C of WSD, H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the application regarding the traffic, landscape, drainage, sewerage, environmental, water supply, geotechnical and fire safety aspects.
- 11.5 For the similar applications considered after the promulgation of the Interim Criteria in 2000, two applications (No. A/SK-PK/181 and 192) were approved with conditions by the Committee in 2011 and 2012 but mainly on the consideration that the sites were the subjects of previously approved applications (i.e. No. A/SK-PK/58 and 59). Three applications (No. A/SK-PK/113, 119 and 282) were rejected by the Board on review/by the Committee in 2002 and 2023 mainly on the grounds that the proposed development was not in line with the planning intention of "REC" zone, and land was still available within the relevant "V" zone for Small House development. The circumstances of the current application are similar to these rejected applications, and rejection of the current application is consistent with the Committee's previous decisions.

12. Planning Department's View

- 12.1 Based on the assessments made in paragraph 11, PlanD does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "Recreation" zone which is primarily for recreational developments for the use

of the general public. There is no strong justification in the submission for a departure from the planning intention; and

- (b) land is still available within the “Village Type Development” (“V”) zone of Sha Kok Mei for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 16.2.2028, 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 recommended advisory clauses are attached at **Appendix V**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decided 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.

14. Attachments

Appendix I	Application Form with attachments received on 21.12.2023
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Comments from Relevant Government Departments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plans A-2a and A-2b	Site Plans
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos