

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

**APPLICATION NO. A/SK-HC/290**

- Applicant** : Chan Kwok Wai represented by Pang Hing Yuen
- Site** : Lots 407 and 408 in D.D. 244, Ho Chung San Tsuen, Sai Kung, New Territories
- Site Area** : 193m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

- 1.1 The applicant, an indigenous villager of Ho Chung Village, seeks planning permission for development of one 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)’ use within the “AGR” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The applicant indicates that the uncovered area of the Site will be used as circulation area for the proposed Small House. Major development parameters are as follows:

Site Area	193m <sup>2</sup>
No. of Small House	1
Covered Area	65.03m <sup>2</sup>
Total GFA	195.09m <sup>2</sup>
No. of Storey	3
Building Height	8.23m

- 1.3 The location and site plans submitted by the applicant are at **Drawings A-1** and **A-2**.

1.4 In support of the application, the applicant has submitted the application form dated 26.4.2018 and attachments at **Appendix I**.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) The applicant is an indigenous villager in Sai Kung, and he is eligible for building a Small House according to the prevailing Small House policy.
- (b) The Site is located within the ‘Village Environ’ (‘VE’) of Ho Chung.
- (c) The applicant does not own any other land for Small House development except the Site.
- (d) There are existing village houses within 50m of the Site. As such, the proposed development is compatible with the surrounding areas. There are previously approved applications, such as applications No. A/SK-HC/167, 259, 260 and 276 in the vicinity of the Site.
- (e) The Site has been left fallow for many years, the Site would be overgrown with vegetation and cause serious mosquito problem during rainy season if it is not managed regularly.
- (g) The Site is located near existing streamcourse/within Water Gathering Ground (WGG). Potential sewerage impact to the streamcourse or WGG is anticipated. The applicant would therefore employ consultant to construct a sewage treatment system to minimize pollution to the surrounding areas.
- (h) There is not enough land for house development in Ho Chung. The applicant intends to utilize land with potential for house development.
- (i) Should the application be approved, the applicant would protect the environment in accordance with comments from departments.

## **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. Previous Application

There is no previous application at the Site.

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

- 6.1 There have been 68 similar applications for Small House developments in the same “AGR” zone on the Ho Chung OZP (**Plan A-1**) since the Interim Criteria was revised on 7.9.2007. Applications No. A/SK-HC 150, 151, 153 to 156, 158, 159, 162, 164, 166, 167, 171 to 173, 179, 183, 184, 194 to 196, 198 to 200, 201 to 203, 206 to 212, 214, 215, 217, 218, 222, 228 to 230, 237, 238, 240, 243, 246, 254, 255, 258 to 261, 263, 267, 268, 270, 272 to 277 and 280 were approved with conditions by the Rural and New Town Planning Committee (the Committee) mainly on grounds of insufficient land within “V” zone to meet the Small House demand; general compliance with the Interim Criteria; and no significant environmental, traffic and drainage impacts on the surrounding areas.
- 6.2 Applications No. A/SK-HC/165, 174, 190 and 204 were rejected by the Committee or the Board upon review mainly on grounds of adverse impact on water gathering grounds and streamcourse; and setting of an undesirable precedent.
- 6.3 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

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

- 7.1 The Site is:
- (a) within the ‘VE’ of Ho Chung;
  - (b) within the WGG;
  - (c) within the Ho Chung Site of Archaeological Interest;
  - (d) partly an existing footpath and nullah, and partly covered by weedy vegetation; and
  - (e) accessible via an existing footpath connecting to Nam Pin Wai Road.
- 7.2 The surrounding areas have the following characteristics:
- (a) predominately rural in character;
  - (b) there are farming activities to the immediate south and southwest of the Site; and
  - (c) to its north is an existing streamcourse.

## 8 Planning Intention

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## 9 Comments from Relevant Government Departments

9.1 The application has been assessed against the assessment criteria of the Interim Criteria set out in **Appendix II**. The assessment of the application is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?  -Footprint of the NTEH/Small House -Application site		100%  100%	Within “AGR” zone.
2.	Within ‘VE’?  -Footprint of the NTEH/Small House -Application site	100%  100%		
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> <li>• Land required to meet Small House demand: about 8.18 ha (equivalent to 327 Small House sites). The outstanding Small House applications are 92<sup>1</sup> while the 10-year Small House demand forecast is 235.</li> <li>• Land available to meet Small House demand: about 3.13 ha (equivalent to 125 Small House sites).</li> </ul>
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point of view, as the Site is considered to possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The Site is located to the southwest of Ho Chung New Village. The surrounding area is predominately rural in character. There are similar applications for Small House developments to the further south of the Site, outside the WGG ( <b>Plans A-1 to A-2b</b> ).

<sup>1</sup> Among the 92 outstanding Small House applications, there are 29 Small House applications straddling or outside the “V” zone that have already obtained planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within Water Gathering Ground?	✓		<p>Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD) advises that the Site is located within the lower indirect WGG. There is a high risk of pollution to the WGG. He objects to the application.</p> <p>Director of Environmental Protection (DEP) advises that the Site is located within WGG where no public sewer is available. He objects to the application as it is necessary to avoid contamination of water resources designated for portable water supply. The submitted information has not demonstrated the compliance with the Water Pollution Control Ordinance.</p>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	<p>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.</p>
9.	Traffic Impact?	✓		<p>Commissioner for Transport (C for T) has reservation on the application. Such type of 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 NTEH – Small House, he considers the application can be tolerated unless it is rejected on other grounds.</p>
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Services Department (CE/MS, DSD) has no in-principle objection to the application from a drainage maintenance viewpoint provided that adequate stormwater drainage facilities would be provided in association with the proposed development not causing adverse drainage impact to the areas in the vicinity. The Site is within an area where neither stormwater nor sewerage connections maintained by DSD is available in the vicinity at present.
11.	Archaeological Impact?		✓	The Site falls within Ho Chung Site of Archaeological Interest. In view of the location of the Site and according to the findings of previous archaeological surveys, the Director of Leisure and Cultural Services Department (Antiquities and Monuments Office) (DLCS (AMO)) has no objection to the application. Nevertheless, the applicant should inform the AMO immediately in case of discovery of antiquities or supposed antiquities in the Site in the course of the construction works.
12.	Landscaping Impact?		✓	<p>Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the application from landscape planning point of view.</p> <p>The Site is located in an area of rural landscape character dominated by farmland (with some active farming), grassland with scattered trees and village houses nearby the Site. Other landscape resource, i.e. natural stream exists to northwest boundary of the Site. According to site photos taken in May 2018, vegetation cover, where active farming is not observed, is found within the Site. Established tree is not observed within boundary of the Site. Vehicular access locates at approximately 20m to the north-east of the Site, and village houses are located at approximately 40m to the east of the Site. The proposed application is not entirely incompatible with the landscape character of the surrounding environment.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>Significant changes and further disturbance to the existing landscape character are not anticipated. Therefore, she has no objection to the application from landscape planning point of view.</p> <p>According to Item 7 (Development Proposal) of the application form submitted by the applicant, “circulation area for the one house” is proposed in the uncovered area. According to the proposed shall house plan, in this submission, it is noted that there is reasonable space available for planting. Moreover, an existing natural stream is observed closed to the Site, appropriate landscape treatment shall be considered as a means of buffer.</p> <p>Should the application be approved, the following approval condition is recommended to be included in the planning permission:</p> <p>the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or the Town Planning Board.</p>

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Detailed comments are at **Appendix IV**.

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

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

- (a) District Officer/Sai Kung, Home Affairs Department;
- (b) Chief Buildings Surveyor/New Territories East(2) & Rail, Buildings Department;

- (c) Chief Engineer (Works), Home Affairs Department;
- (d) Director of Health;
- (e) Director of Electrical and Mechanical Services;
- (f) Chief Highways Engineer/New Territories East, Highways Department; and
- (g) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

## **10 Public Comments Received During Statutory Publication Period**

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 25.5.2018, a total of 14 comments were received from Kadoorie Farm and Botanic Garden Corporation, Hong Kong Bird Watching Society, Designing Hong Kong Limited, and individuals of the public (**Appendix V**). They object to the application mainly on the grounds that the application is not in line with the planning intention of the “AGR” zone; there are an existing streamcourse and farmlands nearby the Site, the proposed development would cause pollution; the application does not comply with the ‘Interim Criterial for Consideration of Application for NTEH/Small House in the New Territories’ as the Site is located within the WGG and the applicant has not demonstrated that the proposed development would not adversely affect the water quality within the WGG; no environmental impact assessment and sewerage impact assessment to address the potential water quality issue; the approval of the application would set an undesirable precedent to the future development; the proposed development would increase the chance of flooding in the area; the proposed development will block the access to the village; and the proposed development would lead to an increase in pedestrian flow in the area, which threaten the security of the village.

## **11. Planning Considerations and Assessments**

- 11.1 The Site falls within an area zoned “AGR” on the Ho Chung OZP, which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The application for development of NTEH (Small House) is not in line with the planning intention of the “AGR” zone. Although there is no farming activity at the Site, there are farming activities to the immediate south and southwest of the Site. DAFC advises that the Site possesses potential for agricultural rehabilitation and he does not support the application.
- 11.2 While the proposed development is not incompatible with the rural character of the surrounding areas comprising farmland, grassland and village houses in the Ho Chung New Village, the Site falls within the WGG where no public sewer is available in the vicinity. CE/Construction, WSD objects to the application as the Site is located within the lower indirect WGG, and there is a high risk of pollution to the WGG. DEP also objects to the application as it is necessary to avoid contamination of water resources designated for portable water supply. The submitted information has not demonstrated the compliance with the Water Pollution Control Ordinance. The application therefore does not comply with the Interim Criteria for consideration of application for New Territories Exempted House/Small House in the New Territories in that the applicant fails to demonstrate that the proposed development within WGG would not cause adverse impact on the water quality in the area.
- 11.3 The Site and the footprint of the proposed development fall entirely within the ‘VE’ of Ho Chung. According to DLO/SK, LandsD, the outstanding Small House application for Ho Chung Village is



92 while the 10-year Small House demand forecast is 235. Thus the total demand for Small House sites is 327. According to the latest estimate by PlanD, about 3.13 ha (equivalent to about 125 Small House sites) of land are available within the “V” zone of Ho Chung Village. Although there is insufficient land to fully meet the future Small House demand of the village in the long run, there is land currently available within the “V” zone to meet the outstanding demand of 92 Small Houses. It is considered more appropriate to concentrate the proposed 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.

- 11.4 The applicant claims that there are similar applications approved within the “AGR” zone in the vicinity of the Site. However, the approved applications are for Small House development outside the WGG. Similar applications for Small House development within the WGG were all rejected by the Committee or the Board upon review mainly on the grounds of adverse impact on the WGG and streamcourse, and setting of undesirable precedents. The proposed development falls within the WGG and no information in the submission has been provided to address the potential adverse impact on the WGG, approval of the application would set an undesirable precedent for other similar applications within the WGG in the “AGR” zone. The cumulative effect of approving such similar applications will result in an adverse impact on the water quality of the area.
- 11.5 The public comments objecting to the application are mainly on the grounds of non-compliance with the planning intention of the “AGR” zone, adverse environmental, water quality and sewerage impacts to the surrounding areas, in particular the WGG. In this regard, the assessments in paragraphs 11.1 to 11.4 above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and taken into account public comments in paragraph 10, 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 “Agriculture” zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from such planning intention;
  - (b) the application does not comply with the Interim Criteria for consideration of application for New Territories Exempted House/Small House in the New Territories in that the applicant fails to demonstrate that the proposed development within water gathering grounds would not cause adverse impact on the water quality of the area; and
  - (c) the approval of the application would set an undesirable precedent for other similar applications within the water gathering ground in the “Agriculture” zone. The cumulative effect of approving such similar applications will result in adverse impact on water quality of the area.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.6.2022, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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; and
- (b) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or the Town Planning Board.

Advisory Clauses

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

**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 approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 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.

**14. Attachments**

<b>Appendix I</b>	Application form dated 26.4.2018
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar planning applications for Small House
<b>Appendix IV</b>	Comments from relevant government departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan
<b>Drawing A-2</b>	Site Plan
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a &amp; A-2b</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos