

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/SK-HC/293 and 294

Applicants : Lau Chi Man (Application No. A/SK-HC/293)
Lau Sun Yau (Application No. A/SK-HC/294)

All represented by Wong Kam Wai

Sites : Lot 445 S.A in D.D. 244 (Application No. A/SK-HC/293)
Lot 445 S.B in D.D. 244 (Application No. A/SK-HC/294)

All in Ho Chung, Sai Kung, New Territories

Site Areas : 115.5m² (about) (Application No. A/SK-HC/293)
89.8m² (about) (Application No. A/SK-HC/294)

Leases : Block Government Lease (demised for agricultural use)

Plan : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11

Zoning : “Agriculture” (“AGR”)

Applications : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposals

1.1 The applicants, indigenous villagers of Ho Chung, seek planning permissions for development of one NTEH (Small House) at each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, within the “AGR” zone, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

1.2 Major development parameters of the proposed Small Houses are as follows:

	Application No. A/SK-HC/293	Application No. A/SK-HC/294
Site Area	115.5m ²	89.8m ²

No. of Small House	1	1
Covered Area	65.03m ²	65.03m ²
Total GFA	195.09m ²	195.09m ²
No. of Storey	3	3
Building Height	8.23m	8.23m

- 1.3 The site plans for the proposed Small Houses submitted by the applicants are shown at **Drawings A-1a** and **A-1b**.
- 1.4 In support of the applications, the applicants have submitted the follow documents:
- (a) Application form of Application No. A/SK-HC/293 dated 16.5.2018 (**Appendix Ia**)
 - (b) Application form of Application No. A/SK-HC/294 dated 16.5.2018 (**Appendix Ib**)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of the application forms at **Appendices Ia** and **Ib** respectively. They can be summarized as follows:

- (a) The applicants, indigenous villagers of Ho Chung Village, have submitted applications for Small House grants to District Land Office/Sai Kung (DLO/SK) on 18.9.2017.
- (b) There is insufficient land zoned “Village Type Development” (“V”) in Ho Chung. Only land zoned “AGR” is available for development of Small Houses.
- (c) The applicants have been searching land suitable for development for many years before they can acquire the Sites.

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

The applicants are the sole “current land owners” of the Sites. 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 Sites.

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

- 6.1 There are 69 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, 204 and 290 were rejected by the Committee or the Board upon review mainly on grounds of adverse impact on water gathering grounds and streamcourse; and setting 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 Sites and Their Surrounding Areas (Plans A-1, A-2a and A-2b and photos on Plans A-3 to A-4b)

- 7.1 The Sites are:
- (a) flat and currently occupied by some private vehicles;
 - (b) within the Village Environs (‘VE’) of Ho Chung;
 - (c) wholly/partly within the Ho Chung Site of Archaeological Interest; and
 - (d) accessible from a village road linking to Nam Pin Wai Road.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the north, east, south and west are a mix of vacant land, vegetated areas, existing village houses and sites approved for Small House developments; and
 - (b) to the further southwest is the “Green Belt” (“GB”) zone covered with trees and shrubs.

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 applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone?</p> <p>-Footprint of the NTEHs/Small Houses</p> <p>-Application sites</p>		<p>100%</p> <p>100%</p>	Within the “AGR” zone.
2.	<p>Within ‘VE’?</p> <p>-Footprint of the NTEHs/Small Houses</p> <p>-Application sites</p>	<p>100%</p> <p>100%</p>		
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 8.18 ha (equivalent to 327 Small House sites). The outstanding Small House applications are 92¹ while the 10-year Small House demand forecast is 235. Land available to meet Small House demand: about 3.13 ha (equivalent to 125 Small House sites).
4.	Compatible with the planning intention of “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural point of view. The Sites have potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The Sites are located to the northwest of Ho Chung New Village. There are existing village houses and similar applications for Small House developments approved by the Committee in the vicinity (Plans A-1 and A-2b).

¹ Among the 92 outstanding Small House applications, 38 of them fall within the “V” zone and 54 straddle or outside the “V” zone. For those 54 applications straddling or being outside the “V” zone, 35 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within Water Gathering Ground?		✓	Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD) has no objection to the applications.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	Director of Fire Services (D of FS) has no in-principle objection to the applications. The applicants are reminded to observe the '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 applications referred by Lands Department.
9.	Traffic Impact?	✓		Commissioner for Transport (C for T) has reservation on the applications. Such type of developments should be confined within "V" zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of developments 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. However, as the applications only involve one Small House each, C for T considers that the applications can be tolerated unless they are rejected on other grounds.
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the applications.
11.	Archaeological Impact?		✓	Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD) has no objection to the applications. The Sites fall within the Ho Chung Site of Archaeological Interest. In view

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				of the locations and scope of the proposed works, she has no objection to the proposed works. Nevertheless, the applicants are required to inform AMO, LCSD immediately in case of discovery of antiquities or supposed antiquities in the Sites in the course of the proposed works.
12.	Landscaping Impact?		✓	<p>Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning point of view.</p> <p>The Sites are located in an area of rural landscape character dominated by village houses and vegetated area. The Sites are hard paved/mainly hard paved areas without/with small patches of vegetation cover, which seems to be self-seeded overgrown of groundcover. The Sites are not incompatible to the landscape character of the surrounding environment. Significant changes and disturbance to the existing landscape character are not anticipated.</p> <p>The proposed Small Houses are not entirely incompatible with the landscape character of the surrounding environment. Significant further changes or disturbances to the landscape character and resources arising from the proposed development are not anticipated.</p> <p>Due to lack of available space within the Sites, meaningful implementation of quality landscape planting (including trees) within the Sites seems not practicable. It is impractical to impose landscape approval condition to the applications in case</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				approvals to the applications are given by the Board.
12.	Local objection conveyed by District Officer/Sai Kung (DO/SK, HAD)?		✓	DO/SK, HAD has no comment on the applications.

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

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

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

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

10. Public Comment Received During Statutory Publication Period

On 29.5.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.6.2018, two comments were received on both applications from Designing Hong Kong Limited and an individual (**Appendix V**). They objects to the application on grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; the natural vegetation of the Sites has been cleaned up and turned into a car parking space without previous application; approval of the applications would set undesirable precedents for similar applications within the “AGR” zone and encourage the expansion of village in an improper way; and the widespread use of septic tanks and the possible contamination of water sources are being ignored by the Government.

11. Planning Considerations and Assessments

11.1 The Sites fall entirely within an area zoned “AGR” zone on the Ho Chung OZP. 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. While the proposed Small House developments are not in line with the planning intention

of the “AGR” zone and DAFC does not support the applications, there is no active farming within the Sites.

- 11.2 The applications generally comply with the Interim Criteria in that the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Ho Chung and there is a general shortage of land in meeting Small House development in the “V” zone. According to DLO/SK, LandsD, the outstanding Small House application for Ho Chung Village is about 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. Therefore, the land available cannot fully meet the future Small House demand. Sympathetic consideration may be given to the applications.
- 11.3 The Sites are located to the northwest of the Ho Chung New Village. The proposed developments are not incompatible with the landscape character of the surrounding areas and no significant changes or disturbances to the existing landscape character and resources are anticipated. The vicinity of the Sites is occupied by Small Houses upon the planning approvals given by the Committee (**Plans A-2a** and **A-2b**). CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. Besides, the proposed Small Houses are not anticipated to result in adverse drainage, sewerage and environmental impacts on the surrounding areas. Concerned government departments including CE/MS, DSD, CE/Construction, WSD and DEP have no major views on/objection to the applications.
- 11.4 Regarding the public comment objecting to the applications, the assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comment mentioned in paragraph 10, the Planning Department has no objection the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until **6.7.2022**, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The following condition of approval and advisory clauses for each of the applications are also suggested for Members’ reference:

Approval Condition

the provision of septic tank, as proposed by the applicant, at 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 VI**.

12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed developments are not in line with the planning intention of the "AGR" zone in Ho Chung, which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It also intends to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submissions for a departure from such planning intention; and
- (b) land is still available within the "V" zone of Ho Chung for Small House development. It is considered more appropriate to concentrate the proposed Small House within the "V" zone for orderly development pattern, efficient use of land and provision of infrastructures and services.

13. Decision Sought

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition and advisory clauses, if any, to be attached to the permissions, and the date when the validity of the permissions should expire.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix Ia	Application form of Application No. A/SK-HC/293 dated 16.5.2018
Appendix Ib	Application form of Application No. A/SK-HC/294 dated 16.5.2018
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar planning applications for Small House
Appendix IV	Comments from relevant government departments
Appendix V	Public Comment
Appendix VI	Advisory Clauses
Drawings A-1a & 1b	Site plans submitted by the applicants
Plan A-1	Location Plan
Plans A-2a & 2b	Site Plans
Plan A-3	Aerial Photo
Plans A-4a & 4b	Site Photos