

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

APPLICATION NO. A/SK-HC/311

- Applicant** : Lau Chi Tung represented by Wong Kam Wai
- Site** : Lot 445 S.D. in D.D. 244, Ho Chung, Sai Kung, New Territories
- Site Area** : About 120.9m²
- 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, 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 House are as follows:

Site Area	120.9m ²
No. of Small House	1
Covered Area	65.03m ²
Total GFA	195.09m ²
No. of Storey	3
Building Height	8.23m

1.3 The lot index plan submitted by the applicant is at **Drawing A-1**.

1.4 In support of the application, the applicant has submitted the application form dated 20.5.2019 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 8 of the application form at **Appendix I**. They can be summarized as follows:

There is insufficient land within the “V” zone of Ho Chung Village for building Small House. The applicant has been searching for land for years before he bought the Site.

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

The applicant is the sole “current land owner” for the private land portion 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 are 72 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, 280, 293, 294 and 305 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 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) currently covered by vegetation
- (b) within the Village Environs ('VE') of Ho Chung;
- (c) within the Ho Chung Site of Archaeological Interest; and
- (d) accessible via a village road leading 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, existing village houses and approved sites for Small House developments; and
- (b) to the further south is Nam Pin Wai Road and a "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 application has been assessed against the assessment criteria 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 the "AGR" zone.
2.	Within 'VE'? -Footprint of the NTEH/Small House -Application site	100% 100%		The District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD) has no objection to the application.
3.	Sufficient land in "V" zone to satisfy		✓	• Land required to meet Small House demand: about 8.48 ha (equivalent

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	outstanding Small House applications and 10-year Small House demand?			to 339 Small House sites). The outstanding Small House applications are 104 ¹ 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 application from agricultural point of view. The Site possesses a potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The Site is located to the southwest 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).
6.	Within Water Gathering Ground?		✓	Chief Engineer/Construction, Water Supplies Department (CE/Construction, 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)?		✓	Director of Fire Services (D of FS) has no objection to the application. The applicant is advised 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 application referred by Lands Department.
9.	Traffic Impact?	✓		• 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

¹ Among the 104 outstanding Small House applications, there are 60 Small House applications straddle or outside the “V” zone . For those 60 applications straddling or being outside the “V” zone, 39 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>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.</p> <ul style="list-style-type: none"> • Notwithstanding the above, as the application only involves one NTEH – Small House, he considers that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage Impact?		✓	<ul style="list-style-type: none"> • Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application. • Director of Environmental Protection (DEP) has no adverse comment on the application as the applicant is committed to install sewage septic tank for sewage treatment for the proposed development.
11.	Archaeological Impact?		✓	<p>Executive Secretary (Antiquities and Monuments) of Antiquities and Monuments Office, Development Bureau (ES/AMO, DEVB) has no objection to the application in view of the location and according to the findings of recent archaeological surveys. The Site falls within the Ho Chung Site of Archaeological Interest. The applicant should inform AMO, DEVB immediately in case of discovery of antiquities or supposed antiquities during the course of excavation.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping Impact?		✓	<ul style="list-style-type: none"> • Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning point of view. • The Site is mainly covered with vegetation, which seems to be self-seeded overgrown of shrub and groundcover, and no active farming is observed at /near the Site. • The application is not incompatible to the landscape character of the surrounding environment. Significant changes and disturbance to the existing landscape resources are not anticipated. • In consideration of limited space within the Site, implementation of effective landscape treatment (particularly by means of tree planting) for bringing greenery contribution to the public realm seems no practicable. It is considered not necessary to impose any landscape-related condition should the application be approved by the Board.
13.	Local objection conveyed by District Officer/Sai Kung (DO/SK, HAD)?		✓	DO/SK, HAD has no comment on the application.

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

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

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Building Surveyor/ NTE2 & Rail, Buildings Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) District Officer/Sai Kung, Home Affairs Department; and
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 28.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 18.6.2019, two comments were received from Designing Hong Kong Limited and an individual (**Appendix V**). They object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; there are still land available within the “V” zone of Ho Chung Village, village house development should be sited close to the village proper as far as possible; and approval of the application would set an undesirable precedent for similar applications within the “AGR” zone and cumulative effect of approval such application would result in a general degradation of the rural environment of the area.

11. Planning Considerations and Assessments

- 11.1 The Site falls 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 development is not in line with the planning intention of the “AGR” zone and DAFC does not support the application, there is no active farming within the Site.
- 11.2 The application generally complies with the Interim Criteria in that the proposed Small House footprint falls 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 104 while the 10-year Small House demand forecast is 235. Thus the total demand for Small House sites is 339. 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. As a new village cluster has been established in the locality and land available within the “V” zone of Ho Chung Village is only slightly more than the number of outstanding Small House applications, sympathetic consideration may be given to the application.
- 11.3 The Site is located to the southwest of Ho Chung New Village. The proposed development is 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 Site is occupied by Small Houses upon planning approvals given by the Committee (**Plans A-2a and A-2b**). CTP/UD&L, PlanD has no objection to the application from landscape planning point of view. Besides, the proposed Small House is 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 adverse comment/objection to the application.

- 11.4 Regarding the public comments objecting to the application, 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 comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **19.7.2023**, 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 Condition

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 VI**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
- (a) the proposed development is 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 submission 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 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 condition 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

Appendix I	Application form dated 20.5.2019
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 Comments
Appendix VI	Advisory Clauses
Drawing A-1	Lot Index Plan submitted by the applicant
Plan A-1	Location Plan
Plans A-2a & A-2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2019**