

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

APPLICATION NO. A/SK-HC/315

- Applicant** : Wan Christopher Kwok Wai represented by Wong Kam Wai
- Site** : Lot 569 R.P. in D.D. 244, Ho Chung, Sai Kung, New Territories
- Site Area** : About 128.25m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zonings** : “Agriculture” (“AGR”) (98%)
“Village Type Development” (“V”) (2%)
- 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 | 128.25m 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 site plan and lot index plan 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 26.7.2019 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:

- (a) the applicant, an indigenous villager of Sai Kung Heung, submitted an application to District Lands Office/Sai Kung for building a Small House at the Site in 2010;
- (b) there is insufficient land within the “V” zone of Ho Chung Village for building Small House. The applicant had been searching for land for years before he bought the Site; and
- (c) the Site is the subject of a previous approved planning application No. A/SK-HC/200.

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

5.1 The Site is the subject of a previous application No. A/SK-HC/200 submitted by same applicant, which was approved by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 5.8.2011. The application was approved 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. Applications No. A/SK-HC/200-1 and 200-2 for extension of time for the commencement of the proposed development of 3 years and 1 year were approved by the Director of Planning under the delegated authority of the Board on 25.6.2015 and 3.8.2018 respectively¹. The application lapsed on 5.8.2019.

5.2 Details of the previous application are at **Appendix III**.

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

6.1 There have been 75 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 199, 201 to 203, 206 to 212, 214, 215, 217, 218, 222, 228 to

¹ According to Town Planning Board Guidelines No. 35C, any extension(s) of time for commencement of development shall not result in an aggregate extension period longer than the original duration for commencement of the approved development proposal. As such, the applicant is required to apply for fresh application for the proposed development.

230, 237, 238, 240, 243, 246, 254, 255, 258 to 261, 263, 267, 268, 270, 272 to 277, 280, 293, 294, 305, 311, 312 to 314 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 IV** 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) paved and parked with cars;
- (b) within the Village Environs (‘VE’) of Ho Chung; and
- (c) accessible via a village road leading to Ho Chung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is the Ho Chung Channel;
- (b) to the east, south and west are a mix of vacant land, existing village houses and approved sites for Small House developments; and
- (c) to the north west is the Ho Chung Lowland Pumping Station zoned “Government, Institution or Community” (“G/IC”).

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		100%	Within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	NTEH/Small House -Application site	2%	98%	
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 outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> Land required to meet Small House demand: about 8.48 ha (equivalent to 339 Small House sites). The outstanding Small House applications are 104² 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) (Plan A-2b)
4.	Compatible with the planning intention of "AGR" zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application. The Site is the same as previously approved application No. A/SK-HC/200.
5.	Compatible with surrounding area/development?	✓		The Site is located to the west 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-2a).
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 specific comment on the application. The applicant is advised to observe the 'New Territories

² 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, 33 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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?	✓		<ul style="list-style-type: none"> • 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, as the application only involves one NTEH – Small House, she 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 adverse comment on the application.
11.	Sewerage Impact?		✓	<ul style="list-style-type: none"> • 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.
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 hard paved area without any existing vegetation in the Site and no active farming is observed/near the Site.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<ul style="list-style-type: none"> • The proposed Small House is not incompatible with the surrounding landscape character. Significant changes or disturbances 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 not 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, Home Affairs Department (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 V**.

- (a) DLO/SK, LandsD;
- (b) D of FS;
- (c) C for T;
- (d) CE/MS, DSD;
- (e) DEP; and
- (f) CTP/UD&L, PlanD

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

- (a) CE/Construction, WSD;
- (b) DAFC;
- (c) Executive Secretary (Antiquities and Monuments) of Antiquities and Monuments Office, Development Bureau (ES/AMO, DEVB);
- (d) DO/SK, HAD;
- (e) Chief Engineer (Works), Home Affairs Department;
- (f) Chief Building Surveyor/ NTE2 & Rail, Buildings Department;
- (g) Chief Highway Engineer/New Territories East, Highways Department; and
- (h) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 2.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 23.8.2019, nine comments were received from individuals (**Appendix VI**). They object to/raise concerns on the application mainly on grounds that the Site is located adjacent to the turning point of an access road leading to the village, the proposed house would block the view of drivers and endanger the residents; the access road is narrow which would be difficult for medium/large vehicles and fire appliance to pass through; there is lack of car parking in the area; the Site is near to existing watercourse and power supply system; the applicant is being suspected is not an indigenous villager; the proposed septic tank is near to the neighbouring house which would lead to hygiene problem; the proposed house would disturb the greenery and scenery; and the application is not in line with the planning intention of the “AGR” zone and there is no strong planning justification for departure from the intention.

11. Planning Considerations and Assessments

- 11.1 The Site falls mainly within an area zoned “AGR” 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, there is no active agricultural activity in the area and DAFC has no comment on the application.
- 11.2 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Ho Chung, while land available within the “V” zone is insufficient to meet the future Small House demand, it is noted that land (about 3.13 ha or equivalent to 125 Small House sites) is still available within the “V” zone to meet the outstanding 104 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, 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 infrastructure and services. Nevertheless, a new village cluster has been established in the locality, land available within the “V” zone of Ho Chung Village is only slightly more than the number of outstanding Small House applications and the Site is the subject of a previously approved application for the same use applied by the same applicant under application No. A/SK-HC/200, sympathetic consideration may be given to the application.
- 11.3 The Site is located to the west of Ho Chung New Village. The vicinity of the Site is occupied by Small Houses upon planning approvals given by the Committee (**Plans A-2a and A-2b**). The proposed development is not incompatible with the surrounding rural environment and landscape character of the surrounding areas and no significant changes or disturbances to the existing landscape character and resources are anticipated. 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 concerns on the impact on an access road leading to the village, DLO/SK, LandsD advises that part of the concerned access road is located on private land and the access road is not an emergency vehicular access. In this regard, D of FS has no specific comment. For other public comments objecting 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 20.9.2023, 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 VII**.

- 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 with attachments dated 26.7.2019
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous application of the Site
Appendix IV	Similar planning applications for Small House
Appendix V	Comments from relevant government departments
Appendix VI	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	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
SEPTEMBER 2019**