

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/367

- Applicants** : Mr. WONG Kin Lun, Mr. CHEUNG William Ka Hang and Mr. CHAN Siu Fan represented by Mr. HUI Kwan Yee
- Site** : Lots 439, 440 RP and 442 RP in D.D. 244, Nam Pin Wai, Sai Kung, New Territories
- Site Area** : About 469.38m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/12
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Three Houses (New Territories Exempted Houses (NTEHs) - Small Houses)

1. The Proposal

- 1.1 The applicants, who are indigenous villagers of Pak A, Ho Chung and Tung A, as confirmed by the respective Indigenous Inhabitant Representatives (IIRs), seek planning permission to build three proposed NTEHs (Small Houses) on the application site (the Site) which falls within an area zoned “AGR” on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ within “AGR” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently vacant with overgrown. Details of each of the proposed NTEH (Small House) 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 The Site forms part of the application site of two previous planning applications with the latest application No. A/SK-HC/238 submitted by the same applicants for the same use as the current application which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 12.12.2014. Extension of time for one year for commencement of development was granted each under applications No. A/SK-HC/238-1 and No. A/SK-HC/238-2, and the planning permission lapsed on 13.12.2020. Details of the previous applications are set out in paragraph 5 and **Appendix III**, and their locations are shown on **Plans A-1** and **A-2a**.
- 1.4 The layouts of the proposed Small Houses (including proposed septic tanks) are shown in **Drawings A-1 to A-3** and **Plan A-2a**.
- 1.5 In support of the application, the applicants have submitted the following documents:
 - (a) Application Form with attachments received on 3.3.2025 (**Appendix I**)
 - (b) Further Information (FI) received on 30.5.2025* (**Appendix Ia**)
**accepted and exempted from publication and recounting requirements*
- 1.6 On 2.5.2025, the Committee of the Board agreed to defer making a decision on the application for two months as requested by the applicants.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application as stated in the Application Form at **Appendix I** are summarized as follows:

- (a) the Site is the subject of a previous approved application No. A/SK-HC/238, in which three applicants forgot to apply for extension of time for the planning permission in 2020; and
- (b) the applicants have submitted Small House applications but were notified by Lands Department (LandsD) that valid planning permissions should be obtained to facilitate the processing of Small House applications.

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

The applicants are the sole “current land owners” of the respective lots. Detailed information would be deposited at the meeting for Members’ inspection.

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, which was revised on 7.9.2007, is at **Appendix II**.

5. Previous Applications

- 5.1 The Site forms part of the application site of two previous applications No. A/SK-HC/26 and 238. Application No. A/SK-HC/26, submitted by a different applicant for 30 3-storey village houses in larger area, was rejected by the Committee on 20.10.1995 mainly on the grounds of being not in line with the planning intention of the “AGR” zone, overloading the transport infrastructure and setting of an undesirable precedent for similar applications in the “AGR” zone. Application No. A/SK-HC/238¹, submitted by the same applicants for same use as the current application, was approved on 12.12.2014 mainly on the considerations that the proposed development was in line with the Interim Criteria; the proposed development was not incompatible with the surrounding; and no adverse impact was anticipated.
- 5.2 Extension of time for commencement of development for one year was granted each under applications No. A/SK-HC/238-1 on 13.12.2018 and No. A/SK-HC/238-2 on 11.12.2019, and the planning permission lapsed on 13.12.2020. Compared with the latest approved application, the number of proposed Small Houses in the current application has been reduced from four to three¹ and the site area and total gross floor area have also been reduced from about 618m² to 469.38m² and 780.36m² to 585.27m² respectively. However, the planning parameters of each house remain unchanged.
- 5.3 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 88 similar applications within/straddling the same “AGR” zone with 80 cases approved and eight cases rejected since the Interim Criteria revised on 7.9.2007. Among them, 45 applications were approved and four applications were rejected before the Board’s formal adoption of a more cautious approach in considering applications for Small House development in August 2015.
- 6.2 After August 2015, there were 35 applications approved mainly on the considerations that a new village cluster was being established in the subject “AGR” zone; the proposed developments generally complied with the Interim Criteria; and no adverse impact on the surrounding areas was anticipated. There were also four applications No. A/SK-HC/290, 357 to 359 rejected by the Committee. Application No. A/SK-HC/290 was rejected on 15.6.2018 mainly on grounds of being not in line with the planning intention of the “AGR” zone; causing adverse impacts on the water quality of the area; and setting of an undesirable precedent. Applications No. A/SK-HC/357 to 359 were rejected on 20.12.2024 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; layout of Small Houses not compatible to Government’s principle of maximizing use of government land; and land was

¹ Application No. A/SK-HC/238 involved four proposed NTEHs and four applicants. One of the NTEHs at Lot 440 S.A in D.D. 244 has been approved by LandsD in 13.9.2017. The current application only involves the remaining three NTEHs.

still available within the “Village Type Development” (“V”) zone of Ho Chung which was primarily for Small House development.

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

7. The Site and Its Surrounding Areas (Plans A-1 and A-2a, aerial photo on Plan A-3, and site photos on Plan A-4)

- 7.1 The Site is:

- (a) currently vacant with overgrown;
- (b) located within the village ‘environs’ (‘VE’) of Ho Chung, and Ho Chung Site of Archaeological Interest (SAI); and
- (c) accessible via a local track branching off Nam Pin Wai Road.

- 7.2 The surrounding areas are of settled valleys landscape predominated by Small Houses and vegetated vacant land. To the southwest are some village houses and a piece of vegetated vacant land with Small Houses approved by LandsD while to the further south across Nam Pin Wai Road is a large and intact piece of woodland within “Green Belt” zone. To the further east and north is the cluster of village houses within the “V” zone in Ho Chung.

8. Planning Intention

The planning intention of the “AGR” zone is primarily 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 the Interim Criteria at **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?			The Site and footprints of the proposed Small Houses fall entirely within the “AGR” zone.
	- Footprints of the proposed Small Houses	-	100%	
	- The Site	-	100%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	Within 'VE'? - Footprints of the proposed Small Houses - The Site	100% 100%		The Site and footprints of the proposed Small Houses fall entirely within the 'VE' of Ho Chung.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> Land required to meet the Small House demand in Ho Chung: about 14.1ha (equivalent to 564 Small House sites). The number of outstanding Small House applications is 84. ^{2, 3}
	Sufficient land in "V" zone to meet outstanding SH applications?	✓		<u>Land Available</u> Land available to meet Small House demand within the "V" zone of the village concerned: about 3.65ha (equivalent to 146 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of "AGR" zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application as the Site possesses potential for agricultural rehabilitation. Agricultural infrastructures such as road access and water source are also available.
5.	Compatible with surrounding area/development?	✓		There are existing Small Houses and sites for Small House developments approved by the Committee to the east, south and west (Plans A-1 and A-2a).
6.	Within WGG?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire		✓	Director of Fire Services (D of FS) has

² Among the 84 outstanding Small House applications, 46 fall within the "V" zone and 38 are straddling/outside the "V" zone.

³ The IIR of Ho Chung has not provided the figure for 10-year Small House demand forecast since 31.12.2019. The latest record (as at 31.12.2019) provided by the IIR for the 10-year Small House demand was 480. The figure has not been verified by District Lands Officer/Sai Kung (DLO/SK), LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	services installations and emergency vehicular access?			no in-principle objection to the application.
9.	Traffic impact?	✓		Commissioner for Transport (C for T) considers that 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 the above, the application only involves development of three Small Houses and could be tolerated on traffic grounds.
10.	Drainage impact?		✓	Chief Engineer/Mainland South, DSD (CE/MS, DSD) has no comment to the application.
11.	Sewerage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Archaeological impact?		✓	Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office, Development Bureau (CHE(AM), AMO, DEVB) advises that the Site falls within the Ho Chung SAI. After reviewing the locations, scope of proposed works and according to the findings of previous archaeological surveys in the surrounding areas, the applicants have committed to notify her office two weeks prior to the commencement of the construction works so as to facilitate AMO to conduct site inspection in the course of excavation. The applicants have committed to sign

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				a Deed of Undertaking for the archaeological work upon receipt of the Deed from AMO via District Lands Office.
13.	Landscape impact?		✓	<ul style="list-style-type: none"> - Chief Town Planner/Urban Planning and Design, Planning Department (CTP/UD&L, PlanD) advises that as the Site is situated in an area of settled valleys landscape predominated by village houses and tree groups. The proposed Small Houses are considered not incompatible with the surrounding landscape character. - The Site is currently vacant with overgrown with no significant landscape resources, significant landscape impact arising from the application is not anticipated.
14.	Local objection conveyed by DO?		✓	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 to the above paragraph. Detailed comments are at **Appendix V**.

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

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department; and

(d) Chief Engineer (Works), HAD.

10. Public Comment Received During Statutory Publication Period

On 11.3.2025, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for three proposed Small Houses at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone as set out in paragraph 8 above. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation for open-field cultivation, greenhouses, plant nurseries, etc., while agricultural infrastructures such as road access and water sources are also available.
- 11.2 The Site is currently vacant with overgrown. The proposed development is considered not incompatible with the surrounding landscape character. CTP/UD&L, PlanD has no comment on the application from landscape planning perspective and advises that significant landscape impact arising from the application is not anticipated. C for T has no objection to the application and considers that the application could be tolerated as it only involves the construction of three Small Houses. Other relevant government departments including CE/C, WSD, D of FS, CE/MS, DSD and DEP have no objection to or no adverse comment on the application.
- 11.3 Regarding the Interim Criteria (**Appendix II**), the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Ho Chung. According to DLO/SK, LandsD, the number of outstanding Small House applications for Ho Chung is 84 while the 10-year Small House demand forecast (as at 31.12.2019) is 480. Based on the latest estimate by PlanD, about 3.65ha of land (equivalent to 146 Small House sites) is available within the “V” zone of Ho Chung (**Plan A-2b**). While the amount of land available within the “V” zone is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. Since August 2015, the Board has formally adopted a more cautious approach in considering applications for Small House developments. Amongst others, in assessing 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 as provided by LandsD. Nevertheless, the Site is part of a previous approved planning application No. A/SK-HC/238 for the same use and submitted by the same applicants as the current submission. Compared with the latest approved application, although the site area and total gross floor area have decreased due to the reduction in the number of proposed Small Houses under application from four to three, the development parameter and the footprint of each house remain unchanged. Besides, DLO/SK, LandsD advised that the Small House

applications are currently being processed. In view of the above, sympathetic consideration can be given to the application.

- 11.4 There are 88 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**), 35 of which were approved by the Committee between 2015 and 2025 after the Board's formal adoption of a more cautious approach mainly on the sympathetic consideration as detailed in paragraph 6.2 above. The planning circumstances of the current application are largely similar to those of the approved applications. Approval of the current application is in line with the Committee's previous decisions.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, 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 4.7.2029, 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 VI**.
- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons are suggested for Members' reference:
- (a) the proposed development is not in line with the planning intention of the "Agriculture" zone, which is primarily to retain and safeguard good 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 justification provided in the submission for a departure from the planning intention; and
 - (b) land is still available within the "Village Type Development" ("V") zone of Ho Chung which is primarily for Small House development. It is considered more appropriate to concentrate the proposed Small Houses development within the "V" zone for more 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(s) and advisory clause(s), 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 applicants.

14. Attachments

Appendix I	Application Form with attachments received on 3.3.2025
Appendix Ia	FI received on 30.5.2025
Appendix II	Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan of the Proposed Small House at Lot 439 in D.D. 244
Drawing A-2	Proposed Layout Plan of the Proposed Small House at Lot 440 RP in D.D. 244
Drawing A-3	Proposed Layout Plan of the Proposed Small House at Lot 442 RP in D.D. 244
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Ho Chung for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2025**