

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

**APPLICATION NO. A/SK-HC/324**

**Applicant:** Mr. CHEUNG Chi Yun Charles represented by Mr. LIT Ying-cheung, Edward

**Site:** Lot 676 RP in D.D. 244, Ho Chung, Sai Kung, New Territories

**Site Area:** 157m<sup>2</sup> (about)

**Lease:** Old Schedule Agricultural Lot held under Block Government Lease

**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 seeks planning permission to build 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:

Roofed over area	65.03m <sup>2</sup>
Total floor area (about)	195.09m <sup>2</sup>
No. of Storeys	3
Building Height	8.23m

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

1.4 The Site is part of two previously rejected applications (No. A/DPA/SK-HC/32 for three village-type houses and No. A/SK-HC/26 for 30 NTEHs). Compared with the previous applications, the current application involves development of one NTEH only.

- 1.5 In support of the application, the applicant has submitted the application form at **Appendix I** and the Supplementary Planning Statement (SPS) at **Appendix Ia**.

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

The justifications put forth by the applicant in support of the application are detailed in Section 5 of the application form at **Appendix Ia**. They can be summarized as follows:

- (a) the Small House Policy was introduced in 1972 but suitable land within “Village Type Development” (“V”) zone has almost exhausted. There is a need to expand the area for erecting an NTEH;
- (b) the Site is the only landed property of the applicant and it is entirely within the ‘Village Environs’ (‘VE’) of Ho Chung. There is no alternative but to use this piece of private land to erect an NTEH to accommodate his family members as well as to improve their standard of living;
- (c) the proposed NTEH only occupies a standard built-over area of not more than 65.03m<sup>2</sup> and the remaining area of the Site will be retained for agricultural/garden purposes;
- (d) the landscape and ecological value of the Site is not very significant as it is a vacant fallow land abandoned for decades. The small scale of the proposed development would bring minimal impact to the surrounding environment. Appropriate mitigation measures would be applied during construction and operation periods to ensure no adverse environmental and drainage impacts. The traffic generation and attraction of the proposed use is anticipated to be very minimal and the applicant will only travel to and from the Site on foot;
- (e) as only Indigenous Villagers of Ho Chung or of the same Heung are eligible for erecting Small House in the area, approving the current application should therefore not entail the approval of other similar applications. Similar applications for erection of NTEH on land zoned “AGR” have been approved by the Board; and
- (f) the applicant is confident that the proposed use will be welcomed by the Indigenous Villagers and the residents because of their inherent brotherhood and camaraderie.

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

The applicant is the sole “current land owner” of the land. 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. The latest set of Interim Criteria promulgated on 7.9.2007 is at

## **Appendix II.**

### **5. Previous Applications (Plan A-2a)**

- 5.1 The Site is the subject of two previous applications No. A/DPA/SK-HC/32 for three village-type houses and No. A/SK-HC/26 for thirty 3-storey NTEHs submitted by different applicants than the current application. The applications were rejected by the Committee/ the Board on review in 1992 and 1995 respectively (before promulgation of the Interim Criteria) mainly on grounds of not in line with the planning intention for agricultural purposes in the area.
- 5.2 Details of the above previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1** and **A-2a**.

### **6. Similar Applications (Plan A-1)**

- 6.1 There have been 77 similar applications for Small House developments in the same “AGR” zone (**Plan A-1**) since the Interim Criteria was revised on 7.9.2007. 72 applications were approved with conditions by 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 Five applications were rejected by the Committee or the Board on review mainly on grounds of adverse impact on water gathering grounds (WGGs) 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, A-4a and A-4b)**

- 7.1 The Site is:
- (a) a flat and vacant scrubland covered by weeds and shrubs;
  - (b) located entirely within the ‘VE’ of Ho Chung and Ho Chung Site of Archaeological Interest (SAI); and
  - (c) accessible on foot from Nam Pin Wai Road.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the immediate north are vacant land covered by similar approvals for Small House developments. A local track and the village proper of Ho Chung New Village are to the further north;

- (b) to the east are existing village houses and sites approved for Small House developments;
- (c) to the immediate south is a vacant scrubland. Nam Pin Wai Road and Nam Pin Wai Village are to the further south; and
- (d) to the west is a vacant land with parking of vehicles and to the further west are some existing village houses.

## 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 “AGR” zone.
2.	Within ‘VE’?  - Footprint of the NTEH/ Small House  - Application site	100%  100%		<ul style="list-style-type: none"> <li>The Site and the Small House footprint fall entirely within the ‘VE’ of Ho Chung, Sai Kung Heung.</li> <li>District Lands Officer/ Sai Kung, Lands Department (DLO/SK, LandsD) has no objection to the application.</li> </ul>
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> <ul style="list-style-type: none"> <li>Land required to meet Small House demand: about 14.56 ha (equivalent to 583 Small House sites). The outstanding Small House</li> </ul>

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<p>applications are 103* while the 10-year Small House demand forecast is 480.</p> <p><u>Land Available</u></p> <ul style="list-style-type: none"> <li>Land available to meet Small House demand: about 3.18 ha (equivalent to 127 Small House sites) (<b>Plan A-2b</b>).</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 possesses a potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The Site is located to the south of Ho Chung New Village. There are similar applications for Small House developments approved by the Committee in the vicinity ( <b>Plans A-1 and A-2a</b> ).
6.	Within WGG?		✓	Chief Engineer/Construction, Water Supplies Department (CE/C, 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 in principle to the application.

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\* Among the 103 outstanding Small House applications, 52 of them fall within the “V” zone and 51 of them are outside the “V” zone, 26 of which were covered by valid planning permissions.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
9.	Traffic Impact?	✓		<ul style="list-style-type: none"> <li>• 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.</li> <li>• Notwithstanding the above, as the application only involves development of a Small House, C for T considers that the application can be tolerated on traffic grounds.</li> </ul>
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application.
11.	Sewerage Impact?		✓	DEP and CE/MS, DSD have no objection to the application.
12.	Landscaping Impact?		✓	Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective.
13.	Geotechnical Impact?		✓	Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
14.	Local objection conveyed by DO?		✓	District Officer (Sai Kung) (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) DAFC;
- (c) CE/C, WSD;
- (d) D of FS;
- (e) C for T;
- (f) CE/MS, DSD;
- (g) DEP;
- (h) CTP/UD&L, PlanD;
- (i) DO(SK), HAD; and
- (j) H(GEO), CEDD.

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Executive Secretary (Antiquities and Monuments) of Antiquities and Monuments Office, Development Bureau (ES(AM), AMO, DEVB); and
- (d) Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department (CBS/NTE2 & Rail, BD).

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

On 16.2.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.3.2021, four comments were received from a Sai Kung District Council Member, Designing Hong Kong Limited, Kadoorie Farm and Botanic Garden Corporation and an individual (**Appendix VI**) raising objection to/concern over the application on grounds including that land is still available within the “V” zone, potential drainage and sewage impacts, the Site is suitable for agricultural use, and setting of undesirable precedent.

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

11.1 The application is for a proposed Small House development at the Site which falls entirely within an area zoned “AGR” on the 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 as the Site has potential for agricultural rehabilitation, there is no active farming within the Site.

- 11.2 Regarding the Interim Criteria (**Appendix II**), according to DLO/SK, LandsD’s record, the total number of outstanding Small House applications for Ho Chung is 103 while the 10-year Small House demand forecast is 480. Based on the latest estimate by the Planning Department, about 3.18 ha (equivalent to 127 Small House sites) are available within the “V” zone concerned. While land available within the “V” zone is insufficient to meet the future Small House demand, land is available within the “V” zone to meet the outstanding 103 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. According to DLO/SK, the applicant has applied for a Small House grant by way of Free Building Licence at the Site and the applicant has been certified as an indigenous villager. Noting that the Committee has approved a number of similar applications in the locality where a new village cluster has been established, sympathetic consideration may be given to the application.
- 11.3 The Site is located within the ‘VE’ of Ho Chung and Ho Chung SAI. The Site is currently covered by weeds and shrubs and the vicinity of the Site are occupied by other Small Houses or approved Small House sites (**Plans A-2a and A-2b**). The proposed development is not incompatible with the surrounding environment and no significant changes or disturbance to the existing landscape character is anticipated. CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. There have been 77 similar applications for Small House approved within the subject “AGR” zone since the Interim Criteria was revised on 7.9.2007. Besides, the proposed Small House generally complies with the Interim Criteria in that it is not anticipated to result in adverse drainage, sewerage, environmental, geotechnical, and archaeological impacts on the surrounding areas. Concerned departments including CE/MS, DSD, DEP, H(GEO) of CEDD and ES(AM) of AMO, DEVB have no adverse comments on or objection to the application.
- 11.4 Regarding the public comments concerning the application on the grounds as detailed in paragraph 10 above, government departments’ comments and planning assessments in paragraphs 11.1 to 11.3 above are relevant.

## **12. Planning Department’s View**

- 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 26.3.2025, 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 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 Member's 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**

<b>Appendix I</b>	Application form with attachments received on 5.2.2021
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix II</b>	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Comments from relevant government departments
<b>Appendix VI</b>	Public Comment
<b>Appendix VII</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan submitted by the applicant
<b>Drawing A-2</b>	Site Plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a &amp; A-2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a &amp; A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2021**