

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/331

Applicant: Mr. CHEUNG, William Wai Lum represented by Cheer Excel Engineering Limited

Site: Lot 483 in D.D. 244, Ho Chung, Sai Kung, New Territories

Site Area: 170.4m² (about)

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, 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 for 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 The Site is the subject of a previously approved application No. A/SK-HC/214 for the same use by the same applicant but lapsed on 1.6.2019. The Site is flat and mostly vacant. Major development parameters of the proposed Small House are as follows:

Built over area	65.03m ²
Gross floor area	195.09m ²
No. of Storeys	3
Building Height	8.23m

1.3 The site plan of the proposed Small House submitted by the applicant is at **Drawing A-1**.

1.4 In support of the application, the applicant has submitted the application form

(**Appendix I**) which was received on 10.8.2021.

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**. The applicant claims that the application for Small House development has not yet been approved by the District Lands Officer, and thus he is seeking extension of the previously granted permission.

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 Application (Plan A-2a)

5.1 The Site is the subject of a previous application No. A/SK-HC/214 submitted by the same applicant for the same use with the same development parameters (except minor revisions in the site area), which was approved by the Rural and New Town Planning Committee (the Committee) with conditions on 1.6.2012. Subsequently, the applicant applied for Extension of Time (EOT) for commencement of development for 36 months (Application No. A/SK-HC/214-1) and the EOT application was approved by the Director of Planning on 7.3.2016 under the delegated authority of the Board. However, the planning permission lapsed on 1.6.2019.

5.2 Details of the previous application are summarized in **Appendix III** and its location is shown on **Plan A-1** and **Plan A-2a**.

6. Similar Applications (Plan A-1)

6.1 There have been 78 similar applications for Small House developments in the same “AGR” zone (**Plan A-1**) since the Interim Criteria was revised on 7.9.2007. 73 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 Among the approved applications, 28 were approved after August 2015 (when the Board has adopted a more cautious approach on Small House applications), with 14 of them involved previous planning approval. These applications were approved, inter alia, with consideration that a new village cluster has been established in the subject “AGR” zone in Ho Chung.
- 6.3 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.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.
- 6.5 Application No. A/SK-HC/325 for the same use in the subject “AGR” zone will also be considered by the Committee at the same meeting.
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) flat, partly vacant and partly occupied by construction and demolition waste;
 - (b) located entirely within the ‘VE’ of Ho Chung; and
 - (c) accessible via a local track connecting to Ho Chung Road to the north.
- 7.2 The surrounding areas have the following characteristics:
- (a) a new village cluster comprising Small House developments approved by the Board is being established in the vicinity of the Site;
 - (b) in the immediate surroundings of the Site, existing Small Houses, tree clusters and open car parks are found to the northeast, east, south and southwest, and there are a number of sites approved for Small House developments to the north, east, south and west of the Site;
 - (c) to the north of the Site is the Ho Chung Lowland Pumping Station, Ho Chung River and to the further north across Ho Chung River is the village proper of Ho Chung;
 - (d) about 40m to its east is an area zoned “V” in which the majority of village houses in Ho Chung New Village are located;
 - (e) to the further south, west and southwest are woodlands, clusters of existing Small House and/or sites approved for Small House developments; and
 - (f) to the west is the Ho Chung Village Office.

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%		<ul style="list-style-type: none"> The Site and the Small House footprint fall entirely within the ‘VE’ of Ho Chung, Sai Kung Heung. District Lands Officer/ Sai Kung, Lands Department (DLO/SK, LandsD) has no objection to the application. The Small House application has been approved and the execution of the Small House grant is under processing.
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"> Land required to meet Small House demand: about 14.7 ha (equivalent to 588 Small House sites). The outstanding Small House applications are 108* while

* Among the 108 outstanding Small House applications, 55 of them fall within the “V” zone and 53 of them are outside the “V” zone (23 of which are covered by valid planning permissions).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		the 10-year Small House demand forecast is 480. <u>Land Available</u> • Land available to meet Small House demand: about 2.99 ha (equivalent to 119 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 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 west of Ho Chung New Village. There are existing Small Houses and similar applications for Small House developments approved by the Committee in the vicinity (Plans A-1 and A-2a).
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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic Impact?	✓		<ul style="list-style-type: none"> • Commissioner for Transport (C for T) advises that the proposed 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 Small House development outside “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 one Small House, she considers that the application can be tolerated on traffic grounds.
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.
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 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), HAD;
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department.

10. Public Comments Received During Statutory Publication Period

On 17.8.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.9.2021, no public comment was received.

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 and its nearby areas.

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 108 while the 10-year Small House demand forecast is 480. Based on the latest estimate by the Planning Department, about 2.99 ha (equivalent to 119 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 108 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. 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. Nonetheless, it is noted that the Site is situated near the edge of the “V” zone to the east, and located amidst a new village cluster in the “AGR” zone where the Ho Chung Village Office, as well as existing Small Houses/sites approved for Small House developments are found. In addition, planning permission was granted by the Committee with conditions for the previous application (No. A/SK-HC/214) submitted by the same applicant on 1.6.2012. The approved Small House development thereat has not commenced mainly due to the execution of the Small House grant which is still under processing by DLO/SK. Noting that there is no change in planning circumstances since the previous application in the vicinity where a new village cluster is being established and the Site is adjacent to the “V” zone, sympathetic consideration may be considered as it would not lead to further spread of uncontrolled proliferation of sporadic Small House developments beyond the new village cluster.

- 11.3 Since the Interim Criteria was revised in 2007, the Committee has approved 73 similar applications in the subject “AGR” zone. In particular, 28 applications (of which 14 with prior planning approval) were approved after a more cautious approach has been adopted by the Board on Small House applications since August 2015, mainly on the considerations that new village clusters have been established in the subject “AGR” zone, the proposed developments were not incompatible with the landscape character of the surrounding areas, and no adverse impacts on the surrounding areas were anticipated. As such, approval of the subject application is in line with the Committee’s previous decisions on similar applications.
- 11.4 The Site is located within the ‘VE’ of Ho Chung. It is partly vacant and partly occupied by construction and demolition waste. Its immediate vicinity is occupied by other Small Houses and sites approved for Small House developments (**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. Besides, the proposed Small House generally complies with the Interim Criteria in that it is not anticipated to result in adverse drainage, sewerage, environmental, and geotechnical impacts on the surrounding areas. Concerned departments including CE/MS, DSD, DEP and H(GEO) of CEDD have no adverse comments on or objection to the application. Whilst C for T advises that the cumulative adverse traffic impact resulted from the permission of Small House development outside “V” zone could be substantial, she considers that the current application only involves development of one Small House and can be tolerated on traffic grounds.
- 11.5 There is no public comment received during the statutory publication period.

12. Planning Department's View

- 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 24.9.2025, 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 VI**.

- 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, 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(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 applicant.

14. Attachments

Appendix I	Application form with attachments received on 10.8.2021
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Comments from relevant government departments
Appendix VI	Advisory Clauses
Drawing A-1	Site Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2a & A-2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**