

APPLICATIONS FOR PERMISSIONS
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/SK-HC/334 and 335

<u>Applicants</u>	: (i) Mr. CHAN Kam Hung (Application No. A/SK-HC/334) (ii) Mr. CHAN Ma Ting (Application No. A/SK-HC/335) both represented by Mr. WONG Kam Kuen
<u>Sites</u>	: (i) Lots 481 S.G ss.1 and 481 S.H (Application No. A/SK-HC/334) (ii) Lots 481 S.F ss.3 and 481 S.G ss.2 (Application No. A/SK-HC/335) all in D.D. 244, Ho Chung, Sai Kung, New Territories
<u>Site Areas</u>	: (i) 126.5m ² (about) (Application No. A/SK-HC/334) (ii) 107.5m ² (about) (Application No. A/SK-HC/335)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposals

1.1 The applicants, both indigenous villagers of Yim Tin Tsai, seek planning permission to build a NTEH (Small House) at each of the application sites (the Sites) (**Plans A-1 and A-2a**). The Sites adjoin each other and fall within an area zoned “AGR” on the approved Ho Chung OZP No. S/SK-HC/11. According to the Notes of the OZP for the “AGR” zone, ‘House (NTEH only, 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 Sites are paved and vacant. Details of each 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 layout plans of the two proposed developments submitted by the applicants are shown at **Drawings A-1a** and **A-1b** respectively.
- 1.4 In support of the applications, the applicants submitted the Application Forms with attachments (**Appendices Ia** and **Ib**) which were received on 30.12.2021.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 8 of the Application Forms at **Appendices Ia** and **Ib**. They can be summarised as follows:

- (a) the applicants, both indigenous villagers of Sai Kung Heung, have each submitted a Small House application to the Lands Department (LandsD) as early as 1994;
- (b) given the shortage of land for Small House development in the “Village Type Development” (“V”) zone of Ho Chung Village and in Sai Kung in general, indigenous villagers can only apply for Small House development on “AGR” sites; and
- (c) the applicants, both in their 70s, are only able to acquire the Sites after years of searching. The applicants seek sympathetic consideration from the Board.

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

Each applicant is the sole “current land owner” of his 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 promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Application

There is no previous application at the Sites.

6. Similar Applications

- 6.1 There are 81 similar applications for Small House(s) within/straddling the same “AGR” zone since the Interim Criteria was revised on 7.9.2007. Of them, 76 applications were approved by the Rural and New Town Planning Committee (the Committee) of the Board mainly on grounds of insufficient land within “V” zone to meet the Small House demand; general compliance with the Interim Criteria;

and no adverse impact on surrounding areas.

- 6.2 Among the approved applications, 30 (including 15 with previous planning permissions lapsed) were approved after the Board has adopted a more cautious approach to consider Small House applications since August 2015. These applications were approved with considerations including *inter alia* that new village clusters were being established in the subject “AGR” zone.
- 6.3 Five applications were rejected by the Committee or the Board on review mainly on grounds of adverse impacts on the water gathering ground (WGG) and streamcourse as well as setting of an undesirable precedent.
- 6.4 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-2a**.

7. The Sites and their Surrounding Areas (Plans A-1, A-2a, and photos on Plans A-3 and A-4)

7.1 The Sites are:

- (a) located entirely within the ‘village environs’ (‘VE’) of Ho Chung;
- (b) paved and vacant with causal parking of vehicles observed; and
- (c) accessible via a local track connecting to Ho Chung Road to their north.

7.2 The surrounding areas have the following characteristics:

- (a) a new village cluster is being established in the vicinity of the Sites. A cluster of existing Small Houses and sites for Small House developments approved by the Board can be found to the immediate north, west and southwest of the Sites;
- (b) to the north and northwest of the Sites are the Ho Chung Village Office, the Ho Chung Lowland Pumping Station, and the village proper of Ho Chung which is within the “V” zone across Ho Chung River; and
- (c) to their immediate east across a local track is an area zoned “V” in which the majority of village houses in Ho Chung New Village are located.

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 applications have been assessed against the assessment criteria as set out in **Appendix II**. The assessment of the applications is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Sites - Footprints of the proposed Small Houses	- -	100% 100%	The Sites and the footprints of the proposed Small Houses fall within an area zoned “AGR”.
2.	Within ‘VE’? - The Sites - Footprints of the proposed Small Houses	100% 100%	- -	The Sites and the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Ho Chung. The District Lands Officer/Sai Kung, LandsD (DLO/SK, LandsD) has no objection to the applications.
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 Small House demand in Ho Chung: about 14.4ha (equivalent to 575 Small House sites). The number of outstanding Small House applications is 95 ¹ while the 10-year Small House demand forecast is 480.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> Land available to meet Small House demand in Ho Chung: about 3ha (equivalent to 120 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural point of view, as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The Sites are located in close proximity to the 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).

¹ Among the 95 outstanding Small House applications, 49 of them fall within the “V” zone and 46 fall outside the “V” zone (22 of which are covered by valid planning permissions).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within Water Gathering Ground (WGG)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no objection to the applications.
9.	Traffic Impact?	✓		The Commissioner for Transport (C for T) advises that the proposed Small House developments should be confined within the “V” zone as far as possible. Notwithstanding that, each of the applications only involves the development of one Small House and she considers that both applications can be tolerated on traffic grounds
10.	Drainage Impact?		✓	The Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no objection to the applications.
11.	Sewerage Impact?		✓	The Director of Environmental Protection (DEP) and CE/MS, DSD have no objection to the applications.
12.	Landscaping Impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no adverse comment on the applications from landscape planning perspective.
13.	Geotechnical Impact?		✓	The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the applications.
14.	Local objection conveyed by District Officer?		✓	The District Officer (Sai Kung), Home Affairs Department (DO(SK), HAD) has no comment on the applications.

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

- (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) H(GEO), CEDD; and
- (j) DO(SK), HAD.

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

- (a) Chief Building Surveyor/New Territories East (2) and Rail, Buildings Department;
- (b) Chief Engineer (Works), HAD; and
- (c) Chief Highway Engineer/New Territories East, Highways Department.

10. Public Comments Received During Statutory Publication Period

On 7.1.2022, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, an opposing comment was received for each application from the same individual (**Appendices Va** and **Vb**). The grounds for objection are mainly that land is still available within the “V” zone for Small House development and that the proposed Small House developments are not likely for meeting the indigenous villagers’ housing needs.

11. Planning Considerations and Assessments

11.1 The applications are for proposed Small House developments at the Sites which fall 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. DAFC does not support the applications as the Sites possess potential for agricultural rehabilitation. While the proposed developments are not in line with the planning intention of the “AGR” zone, there is no active farming activity observed in the Sites and their surroundings.

11.2 The Sites are located entirely within the ‘VE’ of Ho Chung. They are paved and vacant with casual parking of vehicles observed. The immediate vicinity of the Sites is occupied by other existing Small Houses and sites for approved Small House developments (**Plans A-2a, A-3** and **A-4**). The proposed developments are considered not incompatible with the surrounding environment. CTP/UD&L, PlanD has no adverse comment on the applications from landscape planning perspective. C for T advises that the proposed Small House developments should

be confined within the “V” zone as far as possible, but she considers that both applications, each involving the development of one Small House, can be tolerated on traffic grounds. Other concerned government departments have no adverse comment on or objection to the applications.

- 11.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/SK, LandsD, the number of outstanding Small House applications for Ho Chung is 95 while the 10-year Small House demand forecast is 480. Based on the latest estimate by PlanD, about 3ha of land (equivalent to 120 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zone is insufficient to meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach to consider applications for Small House developments since August 2015. 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. It is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, the Sites are located adjacent to the “V” zone and within a new village cluster in the “AGR” zone where the Ho Chung Village Office, existing Small Houses, and sites for approved Small House developments can be found. Noting that the Sites are adjacent to the “V” zone and confined within the new village cluster, sympathetic consideration may be considered as the approval of the applications would not lead to further spread of sporadic Small House developments beyond the new village cluster.
- 11.4 The Committee has approved 76 similar applications in the subject “AGR” zone since the Interim Criteria was revised on 7.9.2007. In particular, 30 applications were approved after the Board had adopted a more cautious approach mainly on considerations that new village clusters were being established in the subject “AGR” zone; general compliance with the Interim Criteria; and no adverse impact on surrounding areas was anticipated. Approval of the subject applications is in line with the Committee’s previous decisions on similar applications.
- 11.5 Regarding the public comments objecting to the applications as detailed in paragraph 10, the planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s View

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 18.2.2026, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The recommended advisory

clauses are attached at **Appendix VI**.

12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection 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 for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

13. Decisions Sought

13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permissions.

13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.

13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendices Ia and Ib	Application Forms with attachments received on 30.12.2021
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories
Appendix III	Similar applications
Appendix IV	Comments from relevant government departments
Appendices Va and Vb	Public comments
Appendix VI	Recommended advisory clauses
Drawings A-1a and A-1b	Layout Plans
Plan A-1	Location Plan
Plans A-2a and A-2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4	Site Photos