

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/337

Applicant : Mr. CHEUNG Chun Man represented by Cheer Excel Engineering Limited

Site : Lot 552 S.A in D.D. 244, Ho Chung, Sai Kung, New Territories

Site Area : About 116.2m²

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 a NTEH (Small House) at the application site (the Site) (**Plans A-1 and A-2a**). The Site falls 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 Site, currently paved and vacant, is the subject of a previously approved application (No. A/SK-HC/230) submitted by the same applicant for the same use, but the planning permission lapsed on 8.3.2022. The development parameters of the proposed Small House under application are the same as those of the previously approved application with details 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 plan of the proposed Small House with a septic tank submitted by the applicant is shown at **Drawing A-1**.

- 1.4 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**) which was received on 28.1.2022.

2. Justification from the Applicant

The justification put forth by the applicant in support of the application is detailed in Part 8 of the application form at **Appendix I**. According to the applicant, since his Small House application is still pending approval by the Lands Department (LandsD), the current planning application is submitted to extend the previously granted permission.

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

The applicant is the sole “current land owner”. 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 Application

5.1 The Site is the subject of a previous application (No. A/SK-HC/230) submitted by the same applicant for the same use, which was approved with condition by the Rural and New Town Planning Committee (the Committee) on 7.3.2014 on the considerations that the footprint of the proposed Small House fell entirely within the ‘village environs’ (‘VE’) of Ho Chung; there was a general shortage of land in meeting the demand for Small House development in the “Village Type Development” (‘V’) zone of Ho Chung; and the proposed development would not cause adverse drainage, landscape and environmental impacts on the surrounding areas. The planning permission was extended on 7.3.2018 and 24.2.2021 respectively. However, the development was not implemented and the planning permission lapsed on 8.3.2022. The development parameters and footprint of the proposed Small House under application remain unchanged as the previously approved application.

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

6. Similar Applications

6.1 There are 82 similar applications for Small House developments within/straddling the same “AGR” zone since the Interim Criteria was revised on 7.9.2007. Of

them, 77 applications were approved with condition(s) by the Committee mainly on grounds of insufficient land within “V” zone to meet the demand for Small House development; general compliance with the Interim Criteria; and no adverse impact on surrounding areas.

- 6.2 Among the approved applications, 32 (including 15 at sites covered by previous planning approvals) 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 given to *inter alia* the new village clusters 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 stream course as well as setting of an undesirable precedent.
- 6.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

7.1 The Site is:

- (a) flat, paved and vacant;
- (b) located entirely within the ‘VE’ of Ho Chung; and
- (c) accessible via a local track connecting to Ho Chung Road to its north.

7.2 The surrounding areas have the following characteristics:

- (a) a new village cluster is being established in the vicinity of the Site. A cluster of existing Small Houses and sites for Small House developments previously approved by the Committee can be found to the immediate east, south and west of the Site;
- (b) to the north of the Site are Ho Chung Village Office, Ho Chung Lowland Pumping Station, and the village proper of Ho Chung which is within the “V” zone across Ho Chung River; and
- (c) about 60m to the east of the Site 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 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 **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprint of the proposed Small House	- -	100% 100%	The Site and the footprint of the proposed Small House fall within an area zoned “AGR”.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	The Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Ho Chung. The District Lands Officer/Sai Kung (DLO/SK), LandsD has no objection to the application.
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 application from the agricultural perspective as the Site possesses potential for agricultural rehabilitation.

¹ Among the 95 outstanding Small House applications, 49 fall within the “V” zone and 46 fall outside the “V” zone (including 23 at sites covered by valid planning permissions).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding areas/developments?	✓		The Site is 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).
6.	Within WGG?		✓	The 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)?		✓	The Director of Fire Services (D of FS) has no objection to the application.
9.	Traffic Impact?	✓		The Commissioner for Transport (C for T) advises that the proposed Small House development should be confined within the “V” zone as far as possible. Notwithstanding that, she considers that the application can be tolerated on traffic grounds as it only involves the development of one Small House.
10.	Drainage Impact?		✓	The Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no adverse comment on the application.
11.	Sewerage Impact?		✓	The Director of Environmental Protection (DEP) and CE/MS, DSD have no adverse comment on the application.
12.	Landscaping Impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the 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 application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
14.	Local objection conveyed by DO?		✓	The 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. Detailed 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) H(GEO), CEDD; and
- (j) DO(SK), HAD.

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

- (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 Comment Received During Statutory Publication Period

On 8.2.2022, the application was published for public inspection. No public comment on the application was received during the statutory publication period.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House development at the Site which falls within an area zoned “AGR” on the OZP. 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. DAFC does not support the application as the Site possesses potential for agricultural rehabilitation. Although the proposed development is not in line with the planning intention of the “AGR” zone, there is no active farming activity observed within the Site and its immediate surroundings.

11.2 The Site is currently paved and vacant. The immediate vicinity of the Site is occupied by other existing Small Houses and sites for approved Small House

developments (**Plans A-2a and A-3**). The proposed development is considered not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective. Other relevant government departments including DEP, CE/MS of DSD and H(GEO) of CEDD have no objection to or no adverse comment on the application. The proposed development generally complies with the Interim Criteria in that it is not anticipated to cause adverse environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Although C for T advises that the proposed Small House development should be confined within the “V” zone as far as possible, she considers that the application can be tolerated on traffic grounds as it only involves the development of one Small House.

- 11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Ho Chung. According to DLO/SK of 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 of Ho Chung. 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 development within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, the Site is 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. In addition, the Site is the subject of a previously approved application (No. A/SK-HC/230) for Small House application submitted by the same applicant and DLO/SK, LandsD advised that the Small House grant application is under processing. Approval of the application will not lead to a further spread of sporadic Small House developments beyond the new village cluster. In this regard, sympathetic consideration may be given to the application.
- 11.4 Other than the previously approved application at the Site, the Committee has approved 77 similar applications in the subject “AGR” zone since the Interim Criteria was revised in 2007. In particular, 32 applications were approved after the Board has adopted a more cautious approach, taking into considerations that new village clusters were being established in the subject “AGR” zone; the proposed development general complied with the Interim Criteria; and no adverse impact on surrounding areas was anticipated. Approval of the subject application is in line with the Committee’s previous decisions.
- 11.5 No public comment on the application was 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 18.3.2026, 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 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. 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 28.1.2022
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Comments from Relevant Government Departments
Appendix VI	Recommended Advisory Clauses

Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plans A-2a and A-2b	Site Plans
Plan A-3	Aerial Photo

**PLANNING DEPARTMENT
MARCH 2022**