

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/341

- Applicant** : Mr. TSE Kok Houngh represented by T.H. & Associates Limited
- Site** : Lot 679 RP in D.D. 244, Ho Chung, Sai Kung, New Territories
- Site Area** : About 145.3m²
- 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)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site, currently vacant with groundcover, is the subject of a previously approved application (No. A/SK-HC/246) submitted by the same applicant for the same use, but the planning permission lapsed on 21.8.2019. 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 submitted by the applicant is shown at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted an application form with

attachments (**Appendix I**) which was received on 6.12.2022.

- 1.5 On 3.2.2023 and 21.4.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application each for two months as requested by the applicant.

2. Justifications from the Applicant

The justifications 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, land supply within “Village Type Development” (“V”) zone is very limited and there is a high demand for Small House development. No tree felling is required in the proposed Small House development and no ditch or stream course is within 30m of the Site. The Site was granted with planning permission (Application No. A/SK-HC/246) and there are similar applications approved by the Board.

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 promulgated 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/246) submitted by the same applicant for the same use, which was approved with conditions by the Committee on 21.8.2015 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 “V” zone of Ho Chung; and the proposed development would not cause adverse drainage, landscape and environmental impacts on the surrounding areas. However, the development had not commenced and the planning permission lapsed on 21.8.2019. 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 83 similar applications for Small House developments within/straddling the same “AGR” zone since the Interim Criteria was revised on 7.9.2007. Of them, 78 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 formally adopted a more cautious approach to consider Small House applications since August 2015. These applications were approved mainly on considerations that the new village clusters were being established in the subject “AGR” zone; the proposed development generally complied with the Interim Criteria; and no adverse impact on the surrounding areas was anticipated.
- 6.3 Five applications were rejected by the Committee or the Board on review mainly on grounds of adverse impacts on the water gathering grounds (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 aerial photo on Plan A-3 and site photos on Plan A-4)

- 7.1 The Site is:
 - (a) vacant with groundcover;
 - (b) abutting the fringe of the “V” zone to its south and located entirely within the ‘VE’ of Ho Chung and Ho Chung Site of Archaeological Interest (SAI); and
 - (c) accessible via Nam Pin Wai Road to its south.
- 7.2 The surrounding areas have the following characteristics:
 - (a) a new village cluster is being established to the north and northwest 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 and north, further west and northwest of the Site;
 - (b) to the further north of the Site is an area zoned “V” in which the majority of village houses in Ho Chung New Village are located; and
 - (c) to the south is Nam Pin Wai Road and the “V” zone of Nam Pin Wai.

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 574 Small House sites). The number of outstanding Small House applications is 94 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 94 outstanding Small House applications, 49 fall within the “V” zone and 45 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 abutting the fringe of the “V” zone to its south and located in proximity to the new village cluster being established to the north and east. 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 in-principle 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 adverse comment to the application 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 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 Heritage Executive (Antiquities and Monuments) of Antiquities and Monuments Office;
- (b) Chief Engineer (Works), HAD; and
- (c) Chief Highway Engineer/New Territories East, Highways Department.

10. Public Comments Received During Statutory Publication Period

On 13.12.2022, the application was published for public inspection. During the statutory publication period, four public comments on the application were received from individuals, opposing to the application mainly on the grounds that the agricultural land should be kept with wildlife, there is still land available for Small House development in the “V” zone, and the construction process would bring nuisance to the neighbourhood (**Appendix VI**).

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 a piece of vacant land with groundcover. 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 adverse comment 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 94 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 formally 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 to its south and in proximity to a new village cluster to its immediate north and east where 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/246) for Small House application submitted by the same applicant, and DLO/SK of LandsD advises that the Small House grant application is under processing. Approval of the current 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 78 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 formally adopted a more cautious approach, taking into considerations that new village clusters were being established in the subject “AGR” zone; the proposed development generally complied with the Interim Criteria; and no adverse impact on the surrounding areas was anticipated. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comments objecting to the application on grounds of

preservation of agriculture land and that land is available within the “V” zone, the departmental comments in paragraph 9 and the assessments in paragraphs 11.1 to 11.4 above are relevant. Regarding nuisances during construction, they would be subject to relevant laws and regulations to be enforced by the relevant authorities.

12. Planning Department’s Views

- 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 application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 14.7.2027, 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 VII**.
- 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 6.12.2022
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	Public Comments
Appendix VII	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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2023**