

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/SK-HC/357 to 359

- Applicants** : Mr. WAN Ka Ho (Application No. A/SK-HC/357)
Mr. WAN Ka Hing (Application No. A/SK-HC/358)
Mr. CHEUNG Martin Chak Fung (Application No. A/SK-HC/359)
all represented by Mr. WONG Kam Wai
- Sites** : Government Land (GL) (Application No. A/SK-HC/357)
GL (Application No. A/SK-HC/358)
Lot 374 RP (Part) in D.D. 244 and (Application No. A/SK-HC/359)
adjoining GL
all in Nam Pin Wai Road, Ho Chung, Sai Kung, New Territories
- Site Areas** : About 65.03m² (Application No. A/SK-HC/357)
About 65.03m² (Application No. A/SK-HC/358)
About 65.03m² (including about 51.1m² (Application No. A/SK-HC/359)
(about 78.6%) of GL)
- Lease** : Block Government Lease (Application No. A/SK-HC/359)
(demised for agricultural use)
- Plan** : Draft Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/12
(currently in force)

Approved Ho Chung OZP No. S/SK-HC/11
(at the time of submission)
- Zoning** : “Agriculture” (“AGR”)
[no change on the current OZP]
- Applications** : Proposed House (New Territories Exempted House (NTEH) – Small House) on each of the application sites

1. The Proposal

- 1.1 The applicants, who are indigenous villagers of Ho Chung Village as confirmed by the Indigenous Inhabitant Representative (IIR), seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) which fall within areas zoned “AGR” on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ within “AGR” zone

is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

- 1.2 The Sites are mostly hard paved, fenced off and currently vacant while part of the Site of Application No. A/SK-HC/359 is covered by vegetation. Details of each of the proposed NTEHs (Small Houses) are as follows:

Total Floor Area	:	195.09m ²
No. of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

- 1.3 The Sites are the subject of three previous approved applications submitted by the same applicants of respective applications for the same use. Part of the Site of Application No. A/SK-HC/359 is also the subject of another previously approved application submitted by a different applicant. All planning permissions already lapsed. Details of the previous applications are set out in paragraph 5 and **Appendix III**, and their locations are shown on **Plans A-1** and **A-2a**.
- 1.4 The layouts of the proposed Small Houses (including proposed septic tanks) are shown in **Drawings A-1** to **A-3** and **Plan A-2a**.
- 1.5 In support of the applications, the applicants have submitted the Application Forms with attachments received on 5.8.2024 (**Appendices Ia** to **Ic**).
- 1.6 On 4.10.2024, the Committee of the Board agreed to the applicants' requests to defer making decisions on the applications for two months to address departmental comments.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications as stated in the Application Forms at **Appendices Ia** to **Ic** are summarized as follows:

- (a) there is shortage of available land within the "Village Type Development" ("V") zone in Ho Chung. Most of the land in Ho Chung is private land and the owners are not willing to sell the land to the villagers for Small House development; and
- (b) most agricultural land within the village 'environs' ('VE') of Ho Chung falls within Water Gathering Ground (WGG), GL suitable for Small House development is limited.

3. Compliance with the "Owner's Consent/Notification" Requirements

For Application No. A/SK-HC/359, the applicant is the sole "current land owner" of the respective lot of the Site. Detailed information would be deposited at the meeting for

Members' inspection. For the GL portion of the Sites, the above requirements are not applicable.

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 Applications

- 5.1 The Sites are the subject of previous approved applications No. A/SK-HC/267, 268 and 254 respectively, which were submitted by the same applicants of respective applications for the same use. A very small part of the Site of application No. A/SK-HC/359 is the subject of another previously approved application No. A/SK-HC/237 which was submitted by a different applicant but for the same use. Compared with the three previously approved applications submitted by the same applicants (No. A/SK-HC/267, 268 and 254), the major development parameters and the footprints of the proposed Small Houses remain unchanged. The three previous applications were approved by the Committee of the Board in 2016 and 2017 mainly on the considerations that the proposed developments were in line with the Interim Criteria in that the Sites and the footprints of the proposed Small Houses fall entirely within the 'VE' of Ho Chung; sympathetic considerations were given as the land available could not fully meet the future Small House demand; the vicinity of the Sites were occupied by Small House developments approved by the Committee; and the proposed developments would not cause adverse drainage, landscape and environmental impacts on the surrounding areas. The planning permissions lapsed on 13.5.2021 and 9.1.2020 respectively. Extension of time for four years for commencement of development was granted for the application No. A/SK-HC/254 under application No. A/SK-HC/254-1. The relevant planning permission also lapsed on 9.1.2024.
- 5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 81 similar applications within/straddling the same "AGR" zone with 76 cases approved and five rejected since the Interim Criteria revised on 7.9.2007. Among them, 45 applications were approved and four applications were rejected before the Board's formal adoption of a more cautious approach in approving applications for Small House development in August 2015.
- 6.2 After August 2015, there were 31 applications approved mainly on considerations that a new village cluster was being established in the subject "AGR" zone; the proposed developments generally complied with the Interim Criteria; and no adverse impact on the surrounding areas was anticipated. There

was also one application No. A/SK-HC/290 rejected mainly on grounds of being not in line with the planning intention of the “AGR” zone; causing adverse impacts on the water quality of the area; and setting of an undesirable precedent.

- 6.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

7.1 The Sites:

- (a) abut Nam Pin Wai Road;
- (b) are hard paved, fenced off and currently vacant with some vegetation along the eastern fringe; and
- (c) are located within the ‘VE’ of Ho Chung and Ho Chung Site of Archaeological Interest (SAI); and

7.2 The surrounding areas are of settled valleys landscape predominated by village houses and woodland. To the immediate east is a piece of vegetated land within the same “AGR” zone. To the immediate south across Nam Pin Wai Road is a large and intact piece of woodland within “Green Belt” zone. Village houses are found in the village cluster of Ho Chung Village to the further east and north. Active cultivation activities are also observed to the further west of the Sites.

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 applications have been assessed against the assessment criteria in the Interim Criteria at **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprints of the proposed Small	-	100%	The Sites and footprints of the proposed Small Houses fall entirely within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Houses - The Sites	-	100%	
2.	Within 'VE'? - Footprints of the proposed Small Houses - The Sites	100% 100%		The Sites and footprints of the proposed Small Houses fall entirely within the 'VE' of Ho Chung.
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 the Small House demand in Ho Chung: about 14.1ha (equivalent to 564 Small House sites). The number of outstanding Small House applications is 84. ^{1, 2}
	Sufficient land in "V" zone to meet outstanding SH applications?	✓		<u>Land Available</u> Land available to meet Small House demand within the "V" zone of the village concerned: about 3.67ha (equivalent to 146 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 applications as agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water sources are also available. The Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		There are existing Small Houses and sites for Small House developments approved by the Committee to the further east and north (Plans A-1 and A-2a).
6.	Within WGG?	✓		Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications.

¹ Among the 84 outstanding Small House applications, 46 fall within the "V" zone and 38 are straddling/outside the "V" zone (including 8 at sites covered by valid planning permissions).

² The IIR of Ho Chung has not provided the figure for 10-year Small House demand forecast since 31.12.2019. The latest record (as at 31.12.2019) provided by the IIR for the 10-year Small House demand was 480. The figure has not been verified by DLO/SK, LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	While the proposed Small Houses do not encroach onto the planned road networks and public works boundaries, Transport Department (TD) is considering to turn the Sites and adjoining GL into a metered parking. Subject to departmental comments and local consultation, TD and Highways Department (HyD) may implement the proposal.
8.	Need for provision of fire services installations and emergency vehicular access?		✓	Director of Fire Services (D of FS) has no in-principle objection to the applications.
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - Commissioner for Transport (C for T) advises that in view of the parking issue in Ho Chung, Small House development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments are 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. - There is insufficient information in the submission to demonstrate that the proposed developments would not generate adverse traffic impact on the area.
10.	Drainage impact?		✓	Chief Engineer/Mainland South, DSD (CE/MS, DSD) has no in-principle objection to the applications.
11.	Sewerage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Archaeological impact?		✓	Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office, Development Bureau (CHE(AM), AMO, DEVB) advises that the Sites fall within the Ho Chung SAI. In view of the location, scope of works and according to the findings of previous archaeological surveys in the surrounding areas, the applicants are required to notify her office two weeks prior to the commencement of the construction works so as to facilitate the staff to conduct site inspection in the course of excavation, and pursuant to the Antiquities and Monuments Ordinance, the applicants are required to inform her office when antiquities or supposed antiquities discovered during the course of work.
13.	Landscape impact?	✓		<ul style="list-style-type: none"> - Chief Town Planner/Urban Planning and Design, Planning Department (CTP/UD&L, PlanD) advises that as the Sites are situated in an area of settled valleys landscape predominated by village houses and woodland, the proposed Small Houses are considered not incompatible with the surrounding village setting and landscape character. - For applications No. A/SK-HC/357 and 358, the Sites are hard paved and currently vacant with no significant landscape resources, significant landscape impact arising from the applications are not anticipated. - For application No. A/SK-HC/359, part of the Site is covered by existing trees and vegetation with reference to the aerial photo in 2023. Site photos, existing trees information and the proposed landscape treatments or mitigation measures including a planting

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				proposal should be provided.
14.	Local objection conveyed by DO?		✓	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 to the above paragraph. Detailed comments are at **Appendix V**.

- (a) DLO/SK, LandsD;
- (b) DAFC;
- (c) C for T;
- (d) CTP/UD&L, PlanD;
- (e) CE/MS, DSD;
- (f) CE/C, WSD;
- (g) D of FS; and
- (h) DO(SK), HAD.

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

- (a) CHE(AM), AMO, DEVB;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Chief Highway Engineer/New Territories East, HyD (CHE/NTE, HyD); and
- (d) Chief Engineer (Works), HAD.

10. Public Comment Received During Statutory Publication Period

On 13.8.2024, the applications were published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the three applications mainly on the grounds that the extension of village boundaries into the “AGR” zone is not justified; the proposed Small Houses would involve occupation on GL; and unused land between the proposed Small Houses would be created (**Appendix VI**).

11. Planning Considerations and Assessments

11.1 The applications are for one proposed Small House at each of the Sites which fall within areas zoned “AGR” on the OZP. The proposed developments are not in line with the planning intention of the “AGR” zone as set out in paragraph 8 above. DAFC does not support the applications from agricultural perspective as the Sites possess potential for agricultural rehabilitation for open-field cultivation, greenhouse, plant nurseries, etc. and agricultural activities are active in the vicinity and agricultural infrastructures such as road access and

water source are also available. Active cultivation activities are also observed to the further west of the Sites. There is no strong planning justification in the current submissions for a departure from the planning intention.

- 11.2 Regarding the Interim Criteria (**Appendix II**), the footprints of the proposed Small Houses fall entirely within the 'VE' of Ho Chung. According to DLO/SK, LandsD, the number of outstanding Small House applications for Ho Chung is 84 while the 10-year Small House demand forecast (as at 31.12.2019) is 480. Based on the latest estimate by PlanD, about 3.67ha of land (equivalent to 146 Small House sites) is available within the "V" zone of Ho Chung (**Plan A-2b**). While the amount of land available within the "V" zone is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. Since August 2015, the Board has formally adopted a more cautious approach in considering applications for Small House developments. 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. Since land is still available within the "V" zone of Ho Chung, 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.
- 11.3 The Sites are the subject of three previously approved applications (No. A/SK-HC/254, 267 and 268) submitted by the same applicants for the same use. The planning permissions lapsed on 9.1.2020 and 13.5.2021 respectively. According to the Interim Criteria (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits. According to DLO/SK, LandsD, letters to reject the Small House applications have been issued by his office in June 2024 since the corresponding planning approvals lapsed; the proposed houses are all stand-alone houses and not in semi-detached mode which are not compatible to Government's principle in maximizing the use of GL for Small House development; and the applicants might be required to re-submit proposed house layout/design in satisfying the principle and there are no new Small House applications received by LandsD from the applicants since last rejection. There are still vacant areas surrounding the Sites without existing NTEHs/Small Houses which the Sites cannot be considered as infill sites. Thus, the subject applications do not warrant a sympathetic consideration.
- 11.4 The Sites are either hard paved, fenced off and currently vacant with groundcover or covered by existing vegetation. The proposed developments are considered not incompatible with the surrounding village setting and landscape character. While the CTP/UD&L, PlanD has no objection to the applications, more information is required in order to ascertain the potential landscape impact for application No. A/SK-HC/359 due to the presence of existing vegetation, in which the applicant did not provide such information. C for T considers that additional traffic generated by the proposed developments are 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 and there is insufficient information to demonstrate that the

proposed developments would not generate adverse traffic impact on the area. Other relevant government departments including CE/C, WSD, D of FS, CE/MS, DSD and DEP have no objection to or no adverse comment on the applications.

- 11.5 Regarding the public comment objecting to the applications as detailed in paragraph 10 above, departmental comments in paragraph 9 and planning assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department does not support the applications for the following reasons:

- (a) the proposed developments are 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 submissions for a departure from the planning intention; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Ho Chung which is primarily for Small House development. It is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 20.12.2028, 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 VII**.

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

14. Attachments

Appendix Ia	Application Form with attachments received on 5.8.2024 (Application No. A/SK-HC/357)
Appendix Ib	Application Form with attachments received on 5.8.2024 (Application No. A/SK-HC/358)
Appendix Ic	Application Form with attachments received on 5.8.2024 (Application No. A/SK-HC/359)
Appendix II	Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comment
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan of Application No. A/SK-HC/357
Drawing A-2	Proposed Layout Plan of Application No. A/SK-HC/358
Drawing A-3	Proposed Layout Plan of Application No. A/SK-HC/359
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Ho Chung for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**