

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/SK-HC/305**

- Applicant** : Chan Cheuk Ping
- Site** : Lot 629 R.P (Part) in D.D. 244 and adjoining Government Land, Ho Chung, Sai Kung, New Territories
- Site Area** : About 65.03m<sup>2</sup> (including about 20 m<sup>2</sup> of Government Land)
- 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 village, seeks planning permission for development of one NTEH (Small House) at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, within 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 Major development parameters of the proposed Small House are as follows:
- |                    |                      |
|--------------------|----------------------|
| Site Area          | 65.03m <sup>2</sup>  |
| No. of Small House | 1                    |
| Covered Area       | 65.03m <sup>2</sup>  |
| Total GFA          | 195.09m <sup>2</sup> |
| No. of Storey      | 3                    |
| Building Height    | 8.23m                |
- 1.3 The location plan and site plan submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.4 In support of the application, the applicant has submitted the application form dated 20.3.2019 and attachments at **Appendix I**.

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

The applicant's previous Small House applications to District Lands Office/Sai Kung for construction of Small Houses on Lots 1743 and 1145 in D.D.244 were rejected. The Site is the only available agricultural land for building Small House.

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

### For the portion of private land

3.1 The applicant is the sole "current land owners" for the private land portion of the Site. Detailed information would be deposited at the meeting for Members' inspection.

### For the portion of government land

3.2 The "owner's consent/notification" requirement as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable on the government land portion of the Site.

## 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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

## 5. Previous Application

There is no previous application at the Site.

## 6. Similar Applications (Plans A-1 and A-2a)

6.1 There are 71 similar applications for Small House developments in the same "AGR" zone on the Ho Chung OZP (**Plan A-1**) since the Interim Criteria was revised on 7.9.2007. Applications No. A/SK-HC/150, 151, 153 to 156, 158, 159, 162, 164, 166, 167, 171 to 173, 179, 183, 184, 194 to 196, 198 to 200, 201 to 203, 206 to 212, 214, 215, 217, 218, 222, 228 to 230, 237, 238, 240, 243, 246, 254, 255, 258 to 261, 263, 267, 268, 270, 272 to 277, 280, 293 and 294 were approved with conditions by the Rural and New Town Planning Committee (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 Applications No. A/SK-HC/165, 174, 190, 204 and 290 were rejected by the Committee or the Board upon review mainly on grounds of adverse impact on water gathering grounds and streamcourse; and setting of an undesirable precedent.

6.3 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

**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) currently paved and vacant;
- (b) largely within the Village Environs ('VE') of Ho Chung;
- (c) within the Ho Chung Site of Archaeological Interest; and
- (d) accessible via Nam Pin Wai Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north, east and west are a mix of vacant land, existing village houses and approved sites for Small House developments; and
- (b) to the south is Nam Pin Wai Road and to the further south is the "Green Belt" ("GB") zone covered with trees and shrubs.

**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	98.27%	1.8%	• More than 50% of the footprint of the proposed Small House falls within the 'VE' of Ho Chung, Sai Kung Heung.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	-Application site	98.27%	1.8%	<ul style="list-style-type: none"> <li>The District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD) has no objection to the application.</li> </ul>
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> <li>Land required to meet Small House demand: about 8.48 ha (equivalent to 339 Small House sites). The outstanding Small House applications are 104<sup>1</sup> while the 10-year Small House demand forecast is 235.</li> <li>Land available to meet Small House demand: about 3.13 ha (equivalent to 125 Small House sites)</li> </ul>
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. The Site possesses a potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		The Site is located to the southwest of Ho Chung New Village. There are existing village houses and similar applications for Small House developments approved by the Committee in the vicinity ( <b>Plans A-1 and A-2b</b> ).
6.	Within Water Gathering Ground?		✓	Chief Engineer/Construction, Water Supplies Department (CE/Construction, 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 adverse comment on the application. The applicant is advised to observe the ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department.
9.	Traffic Impact?	✓		<ul style="list-style-type: none"> <li>Commissioner for Transport (C for</li> </ul>

<sup>1</sup> Among the 104 outstanding Small House applications, there are 62 Small House applications straddle or outside the “V” zone . For those 62 applications straddling or being outside the “V” zone, 37 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>T) has reservation on the application. Such type of development should be confined within “V” zone as far as possible. Although additional traffic generated by the proposed development is 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.</p> <ul style="list-style-type: none"> <li>• Notwithstanding the above, as the application only involves one NTEH – Small House, he considers that the application can be tolerated unless it is rejected on other grounds.</li> </ul>
10.	Drainage Impact?		✓	<ul style="list-style-type: none"> <li>• Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application.</li> <li>• Director of Environmental Protection (DEP) has no adverse comment on the application as the applicant is committed to install sewage septic tank for sewage treatment for the proposed development.</li> </ul>
11.	Archaeological Impact?		✓	<p>Executive Secretary (Antiquities and Monuments) of Antiquities and Monuments Office, Development Bureau (ES/AMO, DEVB) has no objection to the application in view of the location and according to the findings of recent archaeological surveys. The Site falls within the Ho Chung Site of Archaeological Interest. The applicant should inform AMO, DEVB immediately in case of discovery of antiquities or supposed antiquities during the course of excavation.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping Impact?		✓	<ul style="list-style-type: none"> <li>• Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the application from landscape planning point of view.</li> <li>• The Site is mainly hard paved area with patches of vegetation cover nearby, which seems to be self-seeded overgrown of grass/groundcover. The proposed development is not incompatible to the landscape character of the surrounding environment. Significant changes and disturbance to the existing landscape resources are not anticipated.</li> <li>• Due to lack of available space within the Site, meaningful implementation of quality landscape planting within the Site seems not practicable. It is considered not necessary to impose any landscape-related condition to the Site should the application be approved by the Board.</li> </ul>
13.	Local objection conveyed by District Officer/Sai Kung (DO/SK, HAD)?		✓	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 IV**.

- (a) DLO/SK, LandsD;
- (b) DAFC;
- (c) CE/Construction, WSD;
- (d) D of FS;
- (e) C for T;
- (f) CE/MS, DSD;
- (g) DEP;
- (h) ES/AMO, DEVB; and
- (i) CTP/UD&L, PlanD

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Building Surveyor/ NTE2 & Rail, Buildings Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) District Officer/Sai Kung, Home Affairs Department; and

- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department

## 10. Public Comments Received During Statutory Publication Period

On 2.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 23.4.2019, three comments were received from Designing Hong Kong Limited, Kadoorie Farm and Botanic Garden and an individual (**Appendix V**). They object to/comment on the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; the natural vegetation of the Site has been cleaned up and turned into a car parking space without previous application; approval of the application would set an undesirable precedent for similar applications within the “AGR” zone and encourage the expansion of village in an improper way; existing transport infrastructure will be overloaded; the application should be rejected because of the use of septic tank and distance of the Site from the village; and the application should be suspended in light of the recent Judicial Review of Small House application involving government land.

## 11. Planning Considerations and Assessments

- 11.1 The Site falls entirely within an area zoned “AGR” zone on the Ho Chung 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, there is no active farming within the Site.
- 11.2 The application generally complies with the Interim Criteria in that over 50% of the proposed Small House footprint falls entirely within the ‘VE’ of Ho Chung and there is a general shortage of land in meeting Small House development in the “V” zone. According to DLO/SK, LandsD, the outstanding Small House application for Ho Chung Village is about 104 while the 10-year Small House demand forecast is 235. Thus the total demand for Small House sites is 339. According to the latest estimate by PlanD, about 3.13 ha (equivalent to about 125 Small House sites) of land are available within the “V” zone of Ho Chung Village. As such, land available cannot fully meet the future Small House demand in Ho Chung Village. Sympathetic consideration may be given to the application.
- 11.3 The Site is located to the southwest of the Ho Chung New Village. The proposed development is not incompatible with the landscape character of the surrounding areas and no significant changes or disturbances to the existing landscape character and resources are anticipated. The vicinity of the Site is occupied by Small Houses upon the planning approvals given by the Committee (**Plans A-2a and A-2b**). CTP/UD&L, PlanD has no objection to the application from landscape planning point of view. Besides, the proposed Small House is not anticipated to result in adverse drainage, sewerage and environmental impacts on the surrounding areas. Concerned government departments including CE/MS, DSD, CE/Construction, WSD and DEP have no adverse comment/objection to the application.
- 11.4 Regarding the public comments objecting to the application, the assessments in paragraphs 11.1 to 11.3 above are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taking 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 **17.5.2023**, 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 also 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 Members' reference:
- (a) the proposed development is not in line with the planning intention of the "AGR" zone in Ho Chung, 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 and advisory clauses, 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**

<b>Appendix I</b>	Application form dated 20.3.2019
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar planning applications for Small House
<b>Appendix IV</b>	Comments from relevant government departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Location plan submitted by the applicant
<b>Drawing A-2</b>	Site plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a &amp; A-2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2019**