

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HC/322

- Applicant:** Mr. LAI Sze Wai represented by Mr. WONG Kam Wai
- Site:** Lot 388 S.A in D.D. 244, Ho Chung, Sai Kung, New Territories
- Site Area:** 99.1m²
- Lease:** Old Schedule Agricultural Lot held under Block Government Lease
- 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 seeks planning permission to build 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:

Roofed over area	65.03m ²
Total floor area	195.09m ²
No. of Storeys	3
Building Height	8.23m

1.3 The site plan submitted by the applicant is at **Drawing A-1**.

1.4 The Site is the subject of a previous application (No. A/SK-HC/258) for the same use submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 12.8.2016; however, the planning permission granted lapsed on 13.8.2020. Compared with the previous application, the footprint and development parameters of the proposed Small House remain the same under the current application whilst the proposed

septic tank has been relocated from outside to within the subject lot.

- 1.5 In support of the application, the applicant has submitted the application form with attachments which was received on 8.9.2020 at **Appendix I**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 8 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the applicant is an indigenous villager of Sai Kung Heung and has submitted a Small House application to Sai Kung District Lands Office in 2010;
- (b) as there is a severe shortage of land zoned “Village Type Development” (“V”) in Sai Kung and Ho Chung, only land zoned “AGR” is available for development of Small House; and
- (c) the Site is bought by the applicant after years of effort in site searching and the Board’s sympathetic consideration of the application is requested.

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

The applicant is the sole “current land owner” of the land. Detailed information would be deposited at the meeting for Members’ inspection.

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. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Application (Plan A-2a)

- 5.1 The Site is the subject of a previous application No. A/SK-HC/258 submitted by the same applicant, which was approved by the Committee on 12.8.2016. The application was approved mainly on grounds of insufficient land within “V” zone to meet the Small House demand, no adverse impacts envisaged, and general compliance with the Interim Criteria.
- 5.2 Details of the above previous application are summarized at **Appendix III** and its location is shown on **Plan A-1** and **A-2a**.

6. Similar Applications (Plan A-1)

- 6.1 There have been 76 similar applications for Small House developments in the same “AGR” zone (**Plan A-1**) since the Interim Criteria was revised on 7.9.2007. 71 applications were approved with conditions by 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 Five applications were rejected by the Committee or the Board on review mainly on grounds of adverse impact on water gathering grounds (WGGs) and streamcourse, and setting of an undesirable precedent.
- 6.3 Details of the similar applications are summarized at **Appendix IV** 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, A-4a and A-4b)

- 7.1 The Site is:
- (a) flat and paved;
 - (b) located entirely within the Village Environs (“VE”) of Ho Chung and Ho Chung Site of Archaeological Interest (SAI); and
 - (c) accessible from a local track branching off Nam Pin Wai Road.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the immediate north are land covered with shrubs and a stream is found to the further north;
 - (b) to the east are existing 2-3 storey village houses and sites approved for Small House developments;
 - (c) to the immediate south are some 3 storey village houses and to the further south are vacant land and slopes covered with shrubs and vegetation; and
 - (d) to the west is a mix of vacant land and agricultural fields.

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.	<p>Within “V” zone?</p> <p>- Footprint of the NTEH/Small House</p> <p>- Application site</p>		<p>100%</p> <p>100%</p>	<p>Within “AGR” zone.</p>
2.	<p>Within ‘VE’?</p> <p>- Footprint of the NTEH/ Small House</p> <p>- Application site</p>	<p>100%</p> <p>100%</p>		<ul style="list-style-type: none"> • The Site and the Small House footprint fall entirely within the ‘VE’ of Ho Chung, Sai Kung Heung. • District Lands Officer/ Sai Kung, Lands Department (DLO/SK, LandsD) has no objection to the application.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> • Land required to meet Small House demand: about 14.56 ha (equivalent to 583 Small House sites). The outstanding Small House applications are 103* while the 10-year Small House demand forecast is 480. <p><u>Land Available</u></p> <ul style="list-style-type: none"> • Land available to meet Small House demand: about 3.18 ha (equivalent to 127 Small House sites) (Plan A-2b).
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	✓		
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	<p>Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application. The Site is the same as previously approved application No. A/SK-HC/258.</p>

* Among the 103 outstanding Small House applications, 52 of them fall within the “V” zone and 51 of them are outside the “V” zone, 24 of which were covered by valid planning permissions.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/development?	✓		The Site is located to the west of Ho Chung New Village. There are similar applications for Small House developments approved by the Committee in the vicinity (Plans A-1 and A-2a).
6.	Within WGG?		✓	The Site is located near the boundary of WGG. Director of Environmental Protection (DEP) and Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) have no objection to the application provided that their requirements on sewage disposal is complied with. An approval condition requiring the provision of a septic tank is recommended to be imposed.
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 objection in principle to the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic Impact?	✓		<ul style="list-style-type: none"> • Commissioner for Transport (C for 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. • Notwithstanding the above, as the application only involves development of a Small House, C for T considers that the application can be tolerated on traffic grounds.
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application.
11.	Sewerage Impact?		✓	DEP, CE/C, WSD and CE/MS, DSD have no objection to the application.
12.	Landscaping Impact?		✓	Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Geotechnical Impact?		✓	Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the application.
14.	Local objection conveyed by DO?		✓	District Officer (Sai Kung) (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 V**.

- (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) CTP/UD&L, PlanD;
- (i) DO(SK), HAD; and
- (j) H(GEO), CEDD.

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Executive Secretary (Antiquities and Monuments) of Antiquities and Monuments Office, Development Bureau (ES(AM) of AMO, DEVB); and
- (d) Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department (CBS/NTE2 & Rail, BD).

10. **Public Comments Received During Statutory Publication Period**

On 16.9.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.10.2020, one comment was received from an individual (**Appendix VI**) claiming that the Board should consider the current application anew and taking into account changes to the approval criteria in relation to septic tanks.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site which falls entirely 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. While the proposed Small House development is not in line with the planning intention of the “AGR” zone, DAFC has no comment on the application in view of that the Site is subject to a previously approved application (No. A/SK-HC/258).
- 11.2 Regarding the Interim Criteria (**Appendix II**), according to DLO/SK, LandsD’s record, the total number of outstanding Small House applications for Ho Chung is 103 while the 10-year Small House demand forecast is 480. Based on the latest estimate by the Planning Department, about 3.18 ha (equivalent to 127 Small House sites) are available within the “V” zone concerned. While land available within the “V” zone is insufficient to meet the future Small House demand, land is available within the “V” zone to meet the outstanding 103 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. Planning permission has been granted for the previous application (No. A/SK-HC/258) submitted by the same applicant but the permission lapsed on 13.8.2020. The applicant is required to submit a fresh application. According to DLO/SK, the applicant has applied for a Small House grant by way of Free Building Licence at the Site and the applicant has been certified as an indigenous villager. Noting that there is no change in planning circumstances since the previous application was approved and the Committee has approved a number of similar applications in the vicinity where a new village cluster has been established in the locality, sympathetic consideration may be given to the application.
- 11.3 The Site is located within Ho Chung and Ho Chung SAI. The Site is currently formed and the vicinity of the Site are occupied by other Small Houses (**Plans A-2a** and **A-2b**). The proposed development is not incompatible with the surrounding environment and no significant changes or disturbance to the existing landscape character is anticipated. CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. There are also 71 similar applications for Small House approved within the subject “AGR” zone since the Interim Criteria was revised on 7.9.2007. Whilst the Site is located near the boundary of WGG, DEP and CE/C, WSD have no objection to the application and relevant requirements will be included in the advisory clauses at **Appendix VII**. Adverse impacts on WGG are hence not anticipated. Besides, the proposed Small House generally complies with the Interim Criteria in that it is not anticipated to result in adverse drainage, sewerage, environmental, geotechnical, and archaeological and heritage impact on the surrounding areas. Concerned

departments including CE/MS, DSD, DEP, H(GEO) of CEDD and ES(AM) of AMO, DEVB have no adverse comments or objection to the application.

- 11.4 Regarding the public comment concerning the application on the grounds as detailed in paragraph 10 above, government departments' comments and planning assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department's View

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comment 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 6.11.2024, 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 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 VII**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's 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

Appendix I	Application form with attachments received on 8.9.2020
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Comments from relevant government departments
Appendix VI	Public Comment
Appendix VII	Advisory Clauses
Drawing A-1	Site Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2a & A-2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4a & A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**