

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-MUP/133 to 134

- Applicants** : Mr. CHENG Chee Keung (Application No. A/NE-MUP/133)
Mr. CHEUNG Chi Lam Joey (Application No. A/NE-MUP/134)
- All represented by Mr. PANG Hing Yeun
- Sites** Lot 55 S.A in D.D.46 (Application No. A/NE-MUP/133)
Lot 55 S.B in D.D.46 (Application No. A/NE-MUP/134)
- All in Tai Tong Wu, Sha Tau Kok, New Territories
- Site Areas** : 160.6 m² (about) (Application No. A/NE-MUP/133)
166.7 m² (about) (Application No. A/NE-MUP/134)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
- Zoning** : “Agriculture” (“AGR”)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicants, who claimed to be indigenous villagers¹, seek planning permission to build a NTEH (Small Houses) on each of the application sites (the Sites) in Tai Tong Wu, Sha Tau Kok (**Plans A-1 and A-2a**). The Sites are zoned “AGR” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the proposed NTEHs (Small Houses) are as follows:

Total Floor Area : 195.09 m²

¹ According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant of Lot 55 S.A (application No. A/NE-MUP/133) claimed himself to be indigenous villager of Kuk Po of Sha Tau Kok Heung and the applicant of Lot 55 S.B (application No. A/NE-MUP/134) claimed himself to be indigenous villager of Fung Hang of Sha Tau Kok Heung. Their eligibility for Small House concessionary grants have yet to be verified.

Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03 m ²

The applicants indicate that the uncovered area of the Sites would be used as circulation space of the proposed Small Houses. Layout of the proposed Small Houses (including septic tanks) under applications No. A/NE-MUP/133 and 134 is shown on **Drawings A-1 and A-2** respectively.

- 1.3 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) which were received by the Board on 23.3.2018.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in part 9 of the Application Forms in **Appendices Ia and Ib**. They can be summarized as follows:

- (a) the applicants are indigenous villagers and entitled for Small House grants under the Small House Policy;
- (b) the proposed Small Houses footprints are within the 'village environs' ('VE') of Tai Tong Wu;
- (c) the Sites are the only land parcels owned by the applicants for construction of their own Small Houses;
- (d) there are existing houses in the vicinity of the Sites and the proposed developments are compatible with the surrounding village environment;
- (e) there is no tree within the Sites and the proposed developments will not cause adverse environmental impacts;
- (f) there are similar planning applications near the Sites approved by the Board; and
- (g) the applicants are willing to follow the advices from the Board to make sure the proposed developments will not cause adverse environmental impacts.

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

The applicants are the sole "current land owners". Detailed information would be deposited at the meeting for Members' inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in 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, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Application

There is no previous application for the Sites.

6. Similar Applications

- 6.1 There are 20 similar applications for Small House development within/partly within the “AGR” zone in the vicinity of the Sites in the Man Uk Pin Area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 19 applications (No. A/NE-MUP/40, 41, 43, 49, 65 to 67, 70, 110 to 114, 120, 124, 129 to 132) were approved by the Rural and New Town Planning Committee (the Committee) between February 2002 and December 2017 (**Plan A-1**) mainly on the considerations that applications complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone in meeting the Small House demand; and the proposed Small Houses were not expected to have significant adverse environmental, drainage and traffic impacts to the surrounding area.
- 6.3 The remaining application No. A/NE-MUP/48 was rejected by the Committee on 25.6.2004 mainly on the grounds of not complying with the Interim Criteria in that the majority of the Small House footprint was outside the ‘VE’ of Tai Tong Wu.
- 6.4 Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

7. The Sites and Their Surrounding Area (Plans A-1, A-2a and A-2b, A-3 and A-4)

7.1 The Sites are:

- (a) flat, formed and partly used as car park;
- (b) located in close proximity to the village cluster of Tai Tong Wu (**Plans A-2a and A-2b**); and
- (c) near to an existing village access leading to Sha Tau Kok Road – Wo Hang.

7.2 The surrounding area has the following characteristics:

- (a) a rural village environment dominated by mainly village houses and agricultural land;
- (b) to the northeast is a large piece of fallow agricultural land and to the further southeast is channelized section of Ng Tung River and Sha Tau Kok Road – Wo Hang; and
- (c) to the east and south are land for parking of vehicles, existing village houses and sites of a number of planning applications for Small House developments which were approved by the Committee between 2002 to 2017. To the further southwest and west are the village proper of Tai Tong Wu (**Plans A-1 and A-2a**).

8. Planning Intention

The planning intention of the “AGR” zone in Man Uk Pin area 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 **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - The Sites - Footprints of the proposed Small Houses 	-	100%	The Sites and the footprints of the proposed Small Houses fall entirely within the “AGR” zone.
		-	100%	
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - The Sites and Footprints of the proposed Small Houses <p>Application No. A/NE-MUP/133</p> <p>Application No. A/NE-MUP/134</p>	100%	-	DLO/N, LandsD advises that the footprints of the proposed Small Houses fall within the ‘VE’ of Tai Tong Wu.
		100%	-	
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> - Land required to meet the Small House demand in Tai Tong Wu: about 3.5 ha (equivalent to 140 Small House sites). The total number of outstanding Small House applications for Tai Tong Wu is 30² while the 10-year Small House demand forecast for the same village is 110. - Land available within the “V” zone of Tai Tong Wu for Small House development: about 1.33 ha (equivalent to 53 Small House sites) (Plan A-2b).

² Among the 30 outstanding Small House applications, there are 8 Small House applications straddling or outside the “V” zone that have already obtained planning approval from the Board.

	Criteria	Yes	No	Remarks
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agriculture point of view as the Sites are vacant land with road access and water supply. Active agricultural activities are found in the vicinity. The Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The proposed Small Houses are not incompatible with the existing rural village environments (Plan A-2b).
6.	Within Water Gathering Grounds (WGGs)?		✓	
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 in-principle objection to the applications. The applicants are reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - Commissioner for Transport (C for T) has reservation on the applications and advises that Small House developments should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of developments 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, the applications only involve construction of two Small Houses. He considers that the applications can be tolerated unless they are rejected on other grounds.

	Criteria	Yes	No	Remarks
10.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an approval condition on the submission and implementation of drainage proposal is required for each of the applications.
11.	Sewage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the applications alone are unlikely to cause major pollution.
12.	Landscaping impact?	✓		<ul style="list-style-type: none"> - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning point of view. - The proposed Small Houses are not considered incompatible with the existing rural village environment and significant adverse landscape impact is not anticipated. Besides, there are sites of similar Small House applications previously approved by the Town Planning Board adjacent to the Sites. - Should the applications be approved by the Board, an approval condition on submission and implementation of landscape proposal is recommended for each of the applications.
13.	Local objection conveyed by DO?		✓	District Officer (North) (DO(N)) has consulted the locals. The Chairman of Sha Tau Kok District Rural Committee (STKDRC), the incumbent North District Council member, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Tai Tong Wu had no comment on the applications.

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Details of comments from Government departments are at **Appendix IV**.

- (a) District Lands Officer/North, Lands Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;
- (c) Director of Environmental Protection;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Commissioner for Transport;
- (f) Director of Agriculture, Fisheries and Conservation;

- (g) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (h) Director of Fire Services; and
- (i) District Officer (North), Home Affairs Department.

9.3 The following Government departments have no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 3.4.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, three public comments on each application were received respectively (**Appendix V**). A NDC member supports the applications as they provide convenience to the villagers whereas the Chairman of Sheung Shui District Rural Committee indicates no comment on the applications. The Designing Hong Kong Limited objects to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone of Tai Tong Wu for Small House development and the approval of the applications would set an undesirable precedent for similar applications.

11. Planning Considerations and Assessments

- 11.1 The proposed Small House developments are not in line with the planning intention of the “AGR” zone which 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 applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 The applications are cross-village Small House applications. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Tai Tong Wu is 30 while the 10-year Small House demand forecast for the same village is 110. According to the latest estimate by PlanD, a total of about 1.33 ha (equivalent to 53 Small House sites) of land are available within the “V” zone of Tai Tong Wu for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the footprints of the proposed Small Houses fall within the ‘VE’ of Tai Tong Wu.
- 11.3 The Sites are situated in an area of rural village character in close proximity to the existing village, and the proposed Small House developments are not incompatible with the surrounding environment (**Plans A-2a** and **A-3**). The proposed Small Houses are not entirely incompatible with the existing rural village environment and no significant adverse landscape impact is anticipated. CTP/UD&L, PlanD has no objection to the applications from the landscape planning point of view. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed developments only involve the construction of two Small Houses, the applications could be tolerated. Other Government departments consulted, including HyD, DSD, WSD, FSD and CEDD, have no comment on or no objection to the applications.

- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the ‘VE’ of Tai Tong Wu (**Plan A-2a**). While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is noted that land (about 1.33 ha or equivalent to 53 Small House sites) is still available within the “V” to meet the outstanding 30 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. Nevertheless, it is noted that the Sites are in close proximity to the existing village cluster of Tai Tong Wu and there are approved Small House applications in the vicinity, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**).
- 11.5 There are 20 similar applications within / partly within the “AGR” zones in the vicinity of the Site (**Plan A-1**) of which 19 were approved by the Committee between February 2002 and December 2017 mainly on considerations that applications generally met the interim criteria in that the footprint of proposed Small Houses fell entirely within the ‘VE’ of Tai Tong Wu and there was insufficient land within the “V” zone of Tai Tong Wu to meet Small House demand. Except application No. A/NE-MUP/48 was rejected by the Committee in June 2014 mainly on the grounds that proposed Small House development did not comply with the Interim Criteria in that majority of the application site and footprint of the proposed Small House was outside the ‘VE’ of Tai Tong Wu. There has not been major change in planning circumstances of the area since the approval of these similar applications.
- 11.6 Regarding the adverse public comments mainly on not in line with the planning intention of “AGR” zone, land still available in “V” zone and the setting of undesirable precedent for similar applications, Government departments’ comments and planning assessments 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 comments mentioned in paragraph 10, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 18.5.2022, 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 following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and

- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or 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 applications, the following reasons for rejection for each application are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone in Man Uk Pin area which is primarily for retaining and safeguarding 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. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the "V" zone of Tai Tong Wu where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster 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 applications and decide whether to grant or refuse to grant the permissions.

13.2 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 permission, and the date when the validity of the permissions should expire.

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

14. Attachments

Appendices Ia and Ib	Application Forms with Attachments received on 23.3.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the "Agriculture" zone in the Man Uk Pin Area
Appendix IV	Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawings A-1 and A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the "V" zone of Tai

Plan A-3
Plan A-4

Tong Wu for Small House Development
Aerial Photo
Site Photos

PLANNING DEPARTMENT
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