

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

**APPLICATION NO. A/NE-MUP/137**

- Applicant** : Mr. CHUNG Koon Lam represented by Ms. YU Tsz Shan
- Site** : Lot 421 S.A in D.D. 38, Man Uk Pin, Sha Tau Kok, New Territories
- Site Area** : 192.9 m<sup>2</sup> (about)
- 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”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who claimed to be indigenous villager<sup>1</sup>, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Man Uk Pin, Sha Tau Kok (**Plans A-1 and A-2a**). The Site is 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 the proposed NTEH (Small House) are as follows:

Total Floor Area	: 195.09 m <sup>2</sup>
Number of Storeys	: 3
Building Height	: 8.23 m
Roofed Over Area	: 65.03 m <sup>2</sup>

1.3 The applicant indicates that the uncovered area of the Site would be used as garden of the proposed Small House. Layout of the proposed Small House (including septic tank) under application No. A/NE-MUP/137 is shown on **Drawing A-1**.

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<sup>1</sup> According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be indigenous villager of Man Uk Pin of Sha Tau Kok Heung. His eligibility for Small House concessionary grant has yet to be verified.

- 1.4 The Site is the subject of a previous planning application No. A/NE-MUP/107 which was submitted by the same applicant for proposed NTEH (Small House) under application No. A/NE-MUP/137. The application was rejected by the Rural and New Town Committee (the Committee) on 28.11.2014. When compared with the previous rejected application, all the development parameters including the site areas, proposed layouts and locations of the septic tanks are the same.
- 1.5 In support of the application, the applicant has submitted the Application Form with attachment (**Appendix I**) which was received by the Board on 31.7.2018.

## **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 in **Appendix I**. They can be summarized as follows:

- (a) the applicant is indigenous villager of Man Uk Pin Village and entitled for Small House grant under the Small House Policy;
- (b) there is insufficient land within the “Village Type Development” (“V”) zone of Man Uk Pin Village to meet the long-term Small House demand of the indigenous villagers, and there are practical difficulties for the applicant to acquire land within the “V” zone for Small House development;
- (c) the Site falls within the ‘village environs’ (‘VE’) of Man Uk Pin Village. The proposed Small House is compatible with the surrounding village environment;
- (d) the nearby watercourse is located at a distance of more than 15m from the Site and septic tank would be provided for the proposed Small House to avoid causing pollution to the watercourse; and
- (e) the applicant will employ an engineer to prepare and submit drainage proposal with a view to improving the drainage condition of the area.

## **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 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**

- 5.1 The Site is the subject of a previous planning application No. A/NE-MUP/107 for the current planning application No. A/NE-MUP/137 submitted by the same applicant for

proposed NTEH (Small House). The application was rejected by the Committee on 28.11.2014 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; land was still available within the “V” zone of Man Uk Pin Village where land was primarily intended for Small House development; the proposed development did not meet the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding area; and setting of undesirable precedent.

- 5.2 Details of the previous application are at **Appendix III** and its location is shown on **Plan A-1**.

## **6. Similar Applications**

- 6.1 There are 39 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 (**Appendix II**).
- 6.2 Among these similar cases, 26 applications involving 22 sites to the west of the “V” zone of Man Uk Pin Village (**Plan A-1**) (No. A/NE-MUP/56 to 62, 64, 81, 88 to 98, 115 to 119 and 127) were approved by the Rural and New Town Planning Committee (the Committee) or by the Board on review between July 2008 and April 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; the proposed Small Houses were not incompatible with the surrounding area; and the proposed Small Houses would unlikely cause adverse environmental, drainage and traffic impacts.
- 6.3 There are another 13 similar applications to the east of the “V” zone of Man Uk Pin Village (**Plan A-1**). 12 of them (No. A/NE-MUP/99 to 104, 106, 108, 121 to 123 and 128) were rejected by the Committee or by the Board on review between November 2014 and January 2018 mainly on considerations that the proposed developments were not in line with the planning intention of the “AGR” zone and there was no strong planning justification in the submissions for a departure from the planning intention; and land was still available within the “V” zone of Man Uk Pin Village for Small House development. It was considered more appropriate to concentrate those proposed Small Houses close to the existing village cluster within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services. For the remaining application No. A/NE-MUP/35, it was approved with conditions by the Committee on 19.10.2001 mainly on considerations that the site was largely within the “V” zone and entirely within the ‘VE’ and similar to those of other approved cases as stated in paragraph 6.2 above.
- 6.4 Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.
- 6.5 For Members’ information, another two similar applications (No. A/NE-MUP/138 and 139) for proposed houses (NTEH – Small Houses) in Man Uk Pin Village to the northwest of the Site (**Plan A-1**) will be considered by the Committee at the same meeting.

**7. The Site and Its Surrounding Area (Plans A-1, A-2a and A-2b, A-3 and A-4)**

7.1 The Site is:

- (a) mainly flat, vacant and covered by wild grass;
- (b) located to the east of Man Uk Pin Village (**Plans A-2a and A-2b**); and
- (c) not served by any vehicular access but accessible by a footpath.

7.2 The surrounding area has the following characteristics:

- (a) predominantly rural in character where village houses are found to the west, and active/ fallow agricultural land are found to the north, east and south;
- (b) to the west are some vacant land and an area zoned “Government, Institution or Community” (“G/IC”) which is the disused Man Uk Pin Public School and the existing Man Uk Pin Children’s Playground (**Plan A-2a**); and
- (c) there is a watercourse running in a northeast-southwest direction to the northwest of the Site (**Plan 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 application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
1.	Within “V” zone?  - The Site  - Footprint of the proposed Small House	-  -	100%  100%	The Site and the footprint of the proposed Small House falls entirely within the “AGR” zone.
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small House	56.9%  63.5%	43.1%  36.5%	DLO/N, LandsD advises that about 63.5% of the footprint of the proposed Small House falls within the ‘VE’ of Man Uk Pin.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
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 the Small House demand in Man Uk Pin: about 12.05 ha (equivalent to 482 Small House sites). The total number of outstanding Small House applications for Man Uk Pin is 82<sup>2</sup> while the 10-year Small House demand forecast for the same village is 400.</li> <li>- Land available within the “V” zone of Man Uk Pin for Small House development: about 3.30 ha (equivalent to 132 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> <li>- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agriculture point of view as the Site is fallow land covered with grasses. The agricultural activities in the vicinity are active. Agricultural infrastructure such as footpath and water source are available. The Site possesses potential for agricultural rehabilitation.</li> <li>- there is a woodland area close to the Site and a stream nearby. Should the application be approved, the applicant should be advised that good site practice should be adopted to avoid causing any damage, disturbance or pollution to the woodland area and the stream nearby.</li> </ul>
5.	Compatible with surrounding area/ development?	✓		The proposed Small House is not entirely incompatible with the surrounding rural environment dominated by fallow/ active agricultural land, vacant/ unused land and village houses ( <b>Plan A-2b</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

<sup>2</sup> Among the 82 outstanding Small House applications, 38 of them fall within the “V” zone and 44 straddle or outside the “V” zone. For those 44 applications straddling or being outside the “V” zone, 15 of them have obtained valid planning approval from the Board.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
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 application. The applicant is 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"> <li>- Commissioner for Transport (C for T) has reservation on the application and advises that Small House development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed development 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.</li> <li>- Notwithstanding the above, the application only involves construction of one 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 North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required for the application.</li> <li>- The Site is in the vicinity of an existing streamcourse. The applicant shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction.</li> </ul>
11.	Sewage impact?		✓	<ul style="list-style-type: none"> <li>- Director of Environmental Protection (DEP) does not support the application.</li> <li>- Connection to the public sewer is currently infeasible. While it is claimed that the 15m buffer distance</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>from the nearest streamcourse (<b>Plan A-2a</b>) to the proposed soakaway would be provided, it appears that the current proposed location of the soakaway is unlikely to meet this requirement.</p>
12.	Landscaping impact?	✓		<ul style="list-style-type: none"> <li>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) objects to the application from the landscape planning point of view.</li> <li>- The Site is situated in an area of rural agriculture landscape character predominately consisting of village houses and farmland (both active and abandoned). The Site is located in a distance from “V” zone to its west and separated by tree groups and fallow farmland. Active farmlands are found to the south and north of the Sites, while woodland patches are found to the east and west. There is no permitted Small House development adjoining to the Site. It is connected by footpath to the nearby village.</li> <li>- The Site is fallow farmland covered with wild grasses. There are two narrow ditches of low landscape value running within and/ adjoining the Site, i.e. one running across the Site while the other is running along its southern boundary. Both will be affected by the proposed Small House if permission is granted. According to the layout plan (<b>Drawing A-1</b>), the proposed Small House is located at the woodland fringe at the south. Yet, there is no detail in the application to demonstrate any potential landscape impact on the adjacent trees. Although no significant vegetation within the Site will be affected, the approval of the application may set an undesirable precedent to spread the village development near/into the wooded area in this “AGR” zone resulting in potential adverse landscape impact and/or loss of woodland vegetation. The cumulative impact will lead to</li> </ul>

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
				gradual degradation to the surrounding environment.  - Should the application be approved, an approval condition on submission and implementation of landscape proposal is recommended.
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 Man Uk Pin had no comment on the application.

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 V**.

- (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 7.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments were received respectively (**Appendix VI**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the applications. Kadoorie Farm and Botanic Garden, World Wide Fund for Nature Hong Kong, Designing Hong Kong, The Hong Kong Bird Watching Society and one individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone for Small House development; potential adverse environmental and sewage impacts to the natural watercourse nearby; and approval of the application would set an undesirable precedent for similar applications in the area.



## **11. Planning Considerations and Assessments**

- 11.1 The Site falls entirely within “AGR” zone. The proposed Small House development is 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Man Uk Pin is 82 while the 10-year Small House demand forecast for the same village is 400. According to the latest estimate by PlanD, a total of about 3.30 ha (equivalent to 132 Small House sites) of land are available within the “V” zone of Man Uk Pin for Small House development (**Plan A-2b**). DLO/N, LandsD advises that about 63.5% of the footprint of the proposed Small House falls within the ‘VE’ of Man Uk Pin.
- 11.3 The Site is currently vacant and covered by wild grasses (**Plans A-3 and A-4**) and is located to the east of Man Uk Pin Village in a typical rural setting comprising active/fallow agricultural land, tree groups and a few domestic structures. Whilst the proposed Small House is not entirely incompatible with the surrounding rural environment, CTP/UD&L, PlanD objects to the application on the grounds that the Site is situated in an area of rural agriculture landscape character. There is no detail in the application to demonstrate any potential landscape impact on the adjacent trees at the woodland fringe at the south of the Site. Approval of the application would set an undesirable precedent to spread the village development in this part of “AGR” zone. The cumulative impact would lead to gradual degradation to the surrounding environment (**Plans A-2a and A-3**). DEP does not support the application as the proposed septic tank is located within the 15m buffer distance from the nearest streamcourse (**Plan A-2a**). C for T has reservation on the application as such development should be confined within the “V” zone as far as possible but given that the proposed development only involves the construction of one Small House, the application could be tolerated. Other Government departments consulted, including CE/MN of DSD, HyD, 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 footprint of the proposed Small House falls within the ‘VE’ of Man Uk Pin Village (**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 3.30 ha or equivalent to 132 Small House sites) is still available within the “V” zone for Small House development and capable to meet the outstanding 82 Small House applications (**Plan A-2b**). 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 and special consideration would be given to sites with previous planning approvals for Small House development. 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.
- 11.5 The Site is the subject of a previous planning application No. A/NE-MUP/107 submitted by the same applicant for proposed NTEH (Small House) which was rejected by the

Committee on 28.11.2014 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; land was still available within the “V” zone of Man Uk Pin Village where land was primarily intended for Small House development; the proposed development did not meet the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding area; and setting of undesirable precedent. There has not been any major change in planning circumstances of the area since the rejection of this previous application.

- 11.6 There are 39 similar applications for Small House development within / partly within the “AGR” zones in the vicinity of the Site (**Plan A-1**). The 27 approved applications were mostly located to the west of Man Uk Pin Village. They were approved by the Committee between July 2008 and April 2017 mainly on considerations that the applications complied with the Interim Criteria in that more than 50% of the footprints of proposed Small Houses fell within the ‘VE’ and there was a general shortage within the “V” zone for Small House development; the proposed Small Houses were not incompatible with the surrounding areas; the developments would unlikely cause adverse impacts; and a new village cluster was being formed in the locality upon implementation of the approved Small House applications. Thus the circumstances are different from the current application (**Plans A-1 and A-2a**). For those applications to the east of Man Uk Pin Village, only one application (No. A/NE-MUP/35) was approved with conditions by the Committee on 19.10.2001 mainly on considerations that the site falls largely within “V” zone. The other 12 applications were rejected between November 2014 and January 2018 mainly on the grounds of not being in line with the planning intention of “AGR” zone and land was still available in “V” zone. The circumstances of these rejected similar applications are similar to the current application.
- 11.7 There are adverse public comments on the application 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 for Small House development; potential adverse environmental and sewage impacts to the natural watercourse nearby; and approval of the application would set an undesirable precedent for similar applications in the area. In this regard, 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 does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone in Man Uk Pin area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and 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;
  - (b) the applicant fails to demonstrate in the submission that the development would not result in adverse environmental and landscape impacts on the surrounding areas; and

- (c) land is still available within the “V” zone of Man Uk Pin Village 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.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 21.9.2022, 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 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 landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (c) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VII**.

**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 permissions 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 with Attachment received on 31.7.2018
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous Application
<b>Appendix IV</b>	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “Agriculture” zone in the Man Uk Pin Area
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments
<b>Appendix VII</b>	Recommended Advisory Clauses

<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available within the “V” zone of Man Uk Pin Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
SEPTEMBER 2018**