

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-MUP/138 and 139

- Applicants** : Mr. CHUNG Kwai Sang (Application No. A/NE-MUP/138)
Mr. CHUNG Tsz Kwong (Application No. A/NE-MUP/139)
All represented by Ms. YU Tsz Shan
- Sites** : Lots 613 S.E ss.3 & 613 S.F RP in D.D. 37 (Application No. A/NE-MUP/138)
Lots 613 S.D ss.2 & 613 S.E RP in D.D. 37 (Application No. A/NE-MUP/139)
All in Man Uk Pin, Sha Tau Kok,
New Territories
- Site Areas** : 140 m² (about) (Application No. A/NE-MUP/138)
127 m² (about) (Application No. A/NE-MUP/139)
- 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 House) on each of the application sites (the Sites) in Man Uk Pin, 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 m ²
Number of Storeys	: 3
Building Height	: 8.23 m
Roofed Over Area	: 65.03 m ²

¹ According to District Lands Officer/North, Lands Department (DLO/N, LandsD), two applicants claimed themselves to be indigenous villagers of Man Uk Pin of Sha Tau Kok Heung. Their eligibility for Small House concessionary grants have yet to be verified.

- 1.3 The applicants indicate that the uncovered area of the Sites would be used as gardens of the proposed Small Houses. Layouts of the proposed Small Houses (including septic tanks) under applications No. A/NE-MUP/138 and 139 are shown on **Drawings A-1 and A-2** respectively.
- 1.4 The Sites are the subject of two previous planning applications. Applications No. A/NE-MUP/122 and A/NE-MUP/106 were submitted by the same applicants for proposed NTEHs (Small Houses) under application Nos. A/NE-MUP/138 and 139 respectively. Both applications were rejected by the Rural and New Town Committee (the Committee) on 26.8.2016 and 28.11.2014 respectively. When compared with the previous rejected applications, 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 applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) which were received by the Board on 31.7.2018.

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 of Man Uk Pin Village and entitled for Small House grants 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 applicants to acquire land within the “V” zone for Small House development;
- (c) the Sites fall within the ‘village environs’ (‘VE’) of Man Uk Pin Village. The proposed Small Houses are compatible with the surrounding village environment;
- (d) the nearby watercourse is located at a distance of more than 15m from the Sites and septic tanks would be provided for the proposed Small Houses to avoid causing pollution to the watercourse; and
- (e) the applicants will employ an engineer to prepare and submit drainage proposals with a view to improving the drainage condition of the area.

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 Applications

- 5.1 The Sites are the subject of two previous planning applications No. A/NE-MUP/122 and A/NE-MUP/106 for the current planning applications No. A/NE-MUP/138 and 139 submitted by the same applicants for proposed NTEHs (Small Houses) respectively. Both applications were rejected by the Committee on 26.8.2016 and 28.11.2014 respectively on similar grounds that the proposed developments were not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Man Uk Pin Village where land was primarily intended for Small House development.
- 5.2 Details of the previous applications are at **Appendix III** and their locations are 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 (for application No. A/NE-MUP/138), 107, 108, 121, 122 (for application No. A/NE-MUP/139), 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 similar application (No. A/NE-MUP/137) for proposed house (NTEH – Small House) in Man Uk Pin Village to the southeast of the Sites (**Plan A-1**) will be considered by the Committee at the same meeting.

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) mainly flat, vacant and covered by bare soil and 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 south of the Sites (**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 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.	Within “V” zone? - The Sites - Footprints of the proposed Small Houses	- -	100% 100%	The Sites and the footprints of the proposed Small Houses fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Sites and Footprints of the proposed Small Houses			

	Criteria	Yes	No	Remarks
	Application No. A/NE-MUP/138	100%	-	DLO/N, LandsD advises that the footprints of the proposed Small Houses fall within the 'VE' of Man Uk Pin.
	Application No. A/NE-MUP/139	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 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 82² while the 10-year Small House demand forecast for the same village is 400. - Land available within the "V" zone of Man Uk Pin for Small House development: about 3.30 ha (equivalent to 132 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of "AGR" zone?		✓	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agriculture point of view as the Sites are fallow land covered with grasses. The agricultural activities in the vicinity are active. Agricultural infrastructure such as footpath and water source are available. The Sites possess potential for agricultural rehabilitation. - there is a stream near the Sites. Should the applications be approved, the applicants 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.
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 (Plan A-2b).
6.	Within Water Gathering Grounds (WGGs)?		✓	

² 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.

	Criteria	Yes	No	Remarks
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.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - 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. - The Sites are in the vicinity of an existing streamcourse. The applicants 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewage impact?		✓	<ul style="list-style-type: none"> - 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. - The design and construction of the septic tank and soakaway system (STS) should follow ProPECC PN 5/93 and be duly certified by an Authorized Person (AP). - The applicants should be required to take appropriate measures to prevent contaminated surface runoff from being discharged into the streams during construction and operational stages of the developments.
12.	Landscaping impact?	✓		<ul style="list-style-type: none"> - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the applications from the landscape planning point of view. - The Sites are situated in an area of rural agriculture landscape character predominately consisting of village houses and farmland (both active and abandoned). The Sites are 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 Sites. They are connected by footpath to the nearby village. - The Sites are vacant and mostly covered by bare soil, it appears that laying of soil has taken place before the planning applications. An existing narrow ditch of low landscape value running close to the southern boundary of the Sites may likely be affected due to the proposed Small House construction works if permission is granted. Although no significant vegetation within the Sites

	Criteria	Yes	No	Remarks
				<p>will be affected, the approval of the applications might set an undesirable precedent to extend village development in “AGR” zone leading to gradual degradation to the surrounding environment.</p> <p>- The proposed Small Houses have occupied most of the Sites respectively leaving inadequate space for tree planting. Should the applications be approved by the Board, an approval condition on submission and implementation of landscape proposal is not recommended for each of the applications.</p>
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 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 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 applications were published for public inspection. During the first three weeks of the statutory public inspection period, six public comments on each application 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 Sites fall entirely within “AGR” zone. 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 and 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 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 the footprints of the proposed Small Houses fall within the ‘VE’ of Man Uk Pin.
- 11.3 The Sites are currently vacant and covered by bare soil and wild grass (**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 Houses are not entirely incompatible with the surrounding rural environment, CTP/UD&L, PlanD has reservation on the applications noting that the Sites are situated in an area of rural agriculture landscape character and approval of the applications would set an undesirable precedent degrading the rural agriculture landscape character in the area (**Plans A-2a and A-3**). C for T has reservation on the applications as such 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 CE/MN of DSD, EPD, 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 footprints of the proposed Small Houses fall 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 developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

- 11.5 The Sites are the subject of two previous planning applications No. A/NE-MUP/122 and A/NE-MUP/106 submitted by the same applicants for proposed NTEHs (Small Houses). Both applications were rejected by the Committee on 26.8.2016 and 28.11.2014 respectively on similar grounds that that the proposed developments were not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Man Uk Pin Village where land was primarily intended for Small House development. There has not been any major change in planning circumstances of the area since the rejection of those previous applications.
- 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. 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 applications.
- 11.7 There are adverse public comments on 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 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 applications 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; and

- (b) 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 applications, it is suggested that each of the permissions shall be valid until 21.9.2022, 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; and
- (b) 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 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 permissions, 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 31.7.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “Agriculture” zone in the Man Uk Pin Area
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	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 Man Uk Pin Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
SEPTEMBER 2018**