

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/161

Applicant : Mr. TANG Tin Yiu represented by Glister Engineering Consultants Company

Site : Lot 50 S.D ss.1 S.A in D.D. 46, Tai Tong Wu Village, Sha Tau Kok, New Territories

Site Area : 122 m² (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 claims himself an indigenous villager¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Tai Tong Wu (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use in the “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant.

1.2 Details of the proposed NTEH (Small House) 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

1.3 Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as garden of the proposed Small House area.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claims himself to be an indigenous villager of Tai Tong Wu. His eligibility for Small House grant has yet to be ascertained.

1.4 The Site is the subject of a previously approved application (No. A/NE-MUP/124) submitted by the same applicant for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 14.10.2016 but the planning permission lapsed on 15.10.2020. Compared with the previous application, the development parameters of the proposed Small House are the same under the current application (except minor revision in site area for about 1% due to minor lot subdivision to resolve the land dispute with the owner of the adjacent lot).

1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 9.9.2021 (Appendix I)
- (b) Further Information received on 17.9.2021 (Appendix Ia)
(accepted and exempted from publication)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) the application is made on urgent and bona fide need basis;
- (b) the applicant is the registered owner of the Site. He is an indigenous villager and entitled to a Small House grant in accordance with the Small House Policy;
- (c) the Site falls entirely within the 'village environs' ('VE') of Tai Tong Wu. The proposed Small House development is compatible with the surrounding environment and land uses. The Site is the subject of a previously approved application for the same use and there were similar applications approved in the vicinity; and
- (d) The applicant overlooked the deadline to apply for extension of time before the previous planning permission lapsed as he was resolving the land dispute between the Site and its adjacent land. Therefore, a fresh application is required.

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

The applicant is the sole "current land owner" of the lot. 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. 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 application (No. A/NE-MUP/124) submitted by the same applicant for the same use, which was approved with conditions by the Committee

on 14.10.2016 after the adoption of a more cautious approach by the Board mainly on the considerations that the Small House footprint fell entirely within the 'VE'; and the site was in close proximity to the "V" zone of Tai Tong Wu and bounded by existing and new Small Houses at different stages of development. The planning permission lapsed on 15.10.2020. Compared with the previous application, the development parameters are the same under the application except slight reduction to the site area from 123m² to 122m².

- 5.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plans A-1 and A-2a**.

6. Similar Applications

- 6.1 There are 21 similar applications for Small House development in the vicinity of the Site within/ partly within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Thirteen applications (Nos. A/NE-MUP/ 40 to 43, 49, 65 to 67, 70, 110 to 114) were approved by the Committee between February 2002 and May 2015 before the Board's adoption of a more cautious approach mainly on the considerations that more than 50% of the proposed Small House footprints fell within the 'VE'; there was a general shortage of land within "V" zone in meeting the Small House demand at the time of consideration; and the proposed Small Houses would unlikely generate significant adverse environmental, drainage and traffic impacts on the surrounding area.
- 6.3 Seven applications (Nos. A/NE-MUP/120 and 129 to 134) were approved by the Committee between January 2016 and May 2018 after the adoption of a more cautious approach mainly on the considerations that the proposed Small House footprints fell within the 'VE'; the proposed Small House developments were in close proximity to the existing village cluster; and there were similar applications approved in the vicinity of the sites, the implementation of which were forming a new village cluster in the locality.
- 6.4 The remaining rejected application (No. A/NE-MUP/48) was rejected by the Committee in 2004 mainly for the grounds of not complying with the Interim Criteria in that the whole site was outside the "V" zone and the majority of the Small House footprint was outside the 'VE'.
- 6.5 Details of the similar applications are summarised 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, aerial photo on Plan A-3 and site photo on Plan A-4)

- 7.1 The Site is:

- (a) flat and formed;
- (b) located entirely within the 'VE' of Tai Tong Wu; and
- (c) accessible by a local track from Sha Tau Kok – Wo Hang.

7.2 The surrounding areas have the following characteristics:

- (a) a village cluster comprising existing Small Houses and sites with approved Small House developments is being established in the vicinity; and
- (b) to the further southeast is the channelized section of Ng Tung River and Sha Tau Kok Road – Wo Hang.

8. Planning Intention

The planning intention of the “AGR” zone 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 summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprint of the proposed Small House	 – –	 100% 100%	The Site and footprint of the proposed Small House fall within an area zoned “AGR”.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	 100% 100%	 – –	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Site and footprint of the proposed Small House fall entirely within the ‘VE’ of Tai Tong Wu.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Tai Tong Wu: about 3.4 ha (equivalent to 135 Small House sites). The outstanding Small House applications for Tai Tung Wu are 25 ² while the 10-year Small House demand forecast for the same village is 110.

² Among the 25 outstanding Small House applications, 10 of them fall within the “V” zone and 15 straddle or outside the “V” zone. For those 15 applications straddling or outside the “V” zone, 7 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in "V" zone to meet outstanding Small House application?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the "V" zone of Tai Tong Wu: about 1.34 ha (equivalent to 53 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of "AGR" zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are available. The Site can be used for agricultural activities such as greenhouses and plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		- The proposed development is not incompatible with the surrounding areas predominated by village houses.
6.	Within Water Gathering Grounds?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no objection in-principle 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?	✓		- 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 development outside the "V" zone, if permitted, will set an undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the application involves construction of one Small House. She

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				considers that the application can be tolerated unless being rejected on other grounds.
10.	Drainage impact?	✓		- 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.
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective. Significant adverse landscape impact arising from the development is not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of Sha Tau Kok District Rural Committee, the Indigenous Inhabitant Representative (IIR) of Tai Tong Wu, the Resident Representative (RR) of Tai Tong Wu and the incumbent North District Council member of subject constituency have no comment on the application.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Detailed comments from government departments are at **Appendix V**.

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CE/C, WSD;
- (e) CTP/UD&L, PlanD;
- (f) CE/MN, DSD;
- (g) D of FS;
- (h) DAFC; and
- (i) DO(N), HAD.

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 17.9.2021, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two individuals object to the

application mainly on the grounds of the available land within “V” zone is sufficient to meet the outstanding Small House demand, traffic congestion, sewerage impact from the septic tank, environmental pollution and fire risk from the proposed development.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House at the Site zoned “AGR” on the OZP. The proposed 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 agricultural point of view as the Site possesses potential for agricultural rehabilitation.
- 11.2 DLO/N, LandsD advises that the footprint of the proposed Small House falls entirely within the ‘VE’ of Tai Tong Wu. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Tai Tong Wu is 25 while the 10-year Small House demand forecast for the same village is 110. According to the latest estimate by PlanD, about 1.34 ha (equivalent to 53 Small House sites) of land are available in the “V” zone of Tai Tong Wu for Small House development (**Plan A-2b**).
- 11.3 The Site is situated in an area of rural landscape character predominated by village houses. The proposed development is not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application as significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves construction of one Small House, the application could be tolerated. Other relevant Government departments, including DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no adverse comment on / no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Tai Tong Wu (**Plan A-2a**). While land available within the “V” zone of the concerned village is insufficient to fully meet the future Small House demand of 135 Small Houses, it is noted that land (about 1.34 ha or equivalent to 53 Small House sites) is still available within the “V” zone to meet the 25 outstanding 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 infrastructures and services. Nevertheless, it is noted that the Site is located in close proximity to the existing village cluster and there were similar applications in the vicinity of the Site, the implementation of which are forming a new village cluster in the locality. The Site is the subject of a previously approved application (No. A/NE-MUP/124) submitted by the same applicant and the Small House grant application is still under processing by LandsD. In this regard, sympathetic consideration might be given to the application.
- 11.5 There are 21 similar applications for Small House development in the vicinity of the Site within/ partly within the same “AGR” zone. Except for one application (No. A/NE-

MUP/48) which was rejected in 2004 mainly on the grounds of not complying with the Interim Criteria in that the site was outside the “V” zone and majority of the proposed Small House footprint was outside the ‘VE’ of Tai Tong Wu, all other 20 applications were approved. For the 7 applications (Nos. A/NE-MUP/120 and 129 to 134) approved between January 2016 and May 2018 after the adoption of a more cautious approach, they were approved mainly on the considerations that the footprints of the proposed Small Houses fell within the ‘VE’ of Tai Tong Wu; the proposed Small House developments were in close proximity to the existing village cluster; and there were similar applications approved in the vicinity of the sites, the implementation of which were forming a new village cluster in the locality.

- 11.6 Regarding the public comments objecting to the application as detailed in paragraph 10 above, 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 above, 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 29.10.2025, 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; 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members’ reference:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone 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 Tai Tong Wu which 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 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 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 9.9.2021
Appendix Ia	Further Information received on 17.9.2021
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the "V" zone of Tai Tong Wu for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
OCTOBER 2021**