

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/165

Applicant : Mr. CHUNG Chee Man represented by Glister Engineering Consultants Company

Site : Lot 328 S.A in D.D. 37, Man Uk Pin Village, Sha Tau Kok, New Territories

Site Area : 163.4 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 villager of Man Uk Pin Village in Sha Tau Kok Heung¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Man Uk Pin, Sha Tau Kok (**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).

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.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Man Uk Pin Village, Sha Tau Kok Heung. 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/91 for Small House development submitted by the same applicant. The application was approved on 9.5.2014 by the Rural and New Town Planning Committee (the Committee) and the validity of the planning permission was extended twice until 9.5.2022 under applications No. A/NE-MUP/91-1 and 91-2 respectively. The planning permission was lapsed on 10.5.2022. Compared with the previous application, there is no change to the major development parameters and the proposed Small House footprint under the current application.

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

- (a) Application Form with attachments received on 25.3.2022 (Appendix I)
- (b) Further Information (FI) received on 27.4.2022 (Appendix Ia)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** respectively, as summarized below:

- (a) the applicant, being an indigenous villager of Man Uk Pin Village in Sha Tau Kok Heung, is entitled to build a Small House under the current Small House Policy;
- (b) the applicant is still awaiting LandsD's approval on his Small House application and hence a fresh planning application is submitted; and
- (c) the Site falls within the village 'environs' ('VE') of Man Uk Pin Village. The proposed Small House is compatible with the surrounding land uses and there were approved applications for Small House development in the vicinity of the Site.

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 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 previously approved applications No. A/NE-MUP/91 for Small House development. The previous application was submitted by the same applicant as the current application.
- 5.2 Application No. A/NE-MUP/91 was approved by the Committee on 9.5.2014 before the adoption of a more cautious approach by the Board mainly on the consideration that the application complied with the Interim Criteria in that the site fell entirely within the 'VE'

and there was a general shortage of land within the “V” zone in meeting the Small House demand; and the proposed development would unlikely to cause significant adverse impacts on the surrounding areas.

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

6. Similar Applications

- 6.1 A total of 28 similar applications (No. A/NE-MUP/56 to 62, 64, 81, 88 to 98, 115 to 119, 127, 162 to 164) involving 21 sites within the same “AGR” zone to the west of the “V” zone of Man Uk Pin were approved with conditions by the Committee or the Board on review between 2008 and 2021. Of them, 24 applications were approved with conditions before the adoption of a more cautious approach by the Board and the remaining 4 applications (No. A/NE-MUP/127, 162 to 164) were approved after the adoption of a more cautious approach by the Board between 2017 and 2021 mainly on the consideration that the sites were the subject of previously approved applications for the same use submitted by the same applicants; and the approved Small House applications in the vicinity were at different stages of development forming a new village cluster.
- 6.2 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan 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 photos on Plan A-4)

- 7.1 The Site is:

- (a) covered with overgrown grasses;
- (b) located to the west of the village proper of Man Uk Pin Village; and
- (c) accessible via a local village track.

- 7.2 The surrounding areas have the following characteristics:

- (a) an area of rural inland plain landscape character surrounded by village houses and fallow/active agricultural land; and
- (b) surrounded by sites of previously approved applications for Small House development and Small House grant applications approved / being processed by LandsD.

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 the footprint of the proposed Small House falls entirely within the "AGR" zone.
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 Man Uk Pin.
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 Man Uk Pin: about 12.4 ha (equivalent to 494 Small House sites). The outstanding Small House applications for Man Uk Pin Village are 46 ² while the 10-year Small House demand forecast for the same village is 448.
	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 Man Uk Pin Village: about 2.96 ha (equivalent to 118 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 source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc.

² Among the 46 outstanding Small House applications, 28 of them fall within the "V" zone and 18 straddle or outside the "V" zone. For those 18 applications straddling or outside the "V" zone, 8 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/development?	✓		- The proposed development is not incompatible with the surrounding areas characterized by village houses, fallow/active agricultural land, vegetated areas and woodland.
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 specific comment on the application. The applicant is reminded to observe 'NTEH – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) considers that the application only involving development of one Small House can be tolerated on traffic 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 developments is not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Indigenous Inhabitant Representative (IIR) of Man Uk Pin supports the application. The Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Council member of the subject constituency

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				and the Resident Representative (RR) of Man Uk Pin 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 1.4.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual objects to the application mainly on the grounds that the subject application is an example that the applicant abuses the planning system via deferments.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House on 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 The Site, located adjacent to the existing village proper of Man Uk Pin village, is situated in an areas of rural inland plains landscape character surrounded by village houses, active/fallow farmlands, vegetated areas and woodland. The proposed Small House development is not incompatible with the surrounding areas (**Plans A-2a and A-3**). 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.

11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House for Man Uk Pin Village is 46 while the 10-year Small House demand forecast

is 448. Based on PlanD's latest estimate, about 2.96 ha (equivalent to 118 Small House sites) is available within the "V" zone concerned. While the amount of land available within the "V" zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in considering applications for Small House development in August 2015. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, the Board has put more weighting on the number of outstanding Small House applications as provided by LandsD. 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 infrastructures and services. Nevertheless, it is noted that the Site is located in close proximity to similar applications approved for Small Houses, the implementation of which are forming a new village cluster in the locality. The Site is also the subject of previously approved application (No. A/NE-MUP/91) submitted by the same applicant and the Small House grant application is still being processed by LandsD. In this regard, sympathetic consideration might be given to the application.

11.4 As set out in paragraph 6.1 above, a total of 28 similar applications within the same "AGR" zone were approved between 2008 and 2021. Of them, 4 applications (No. A/NE-MUP/127, 162 to 164) were approved after the adoption of a more cautious approach by the Board on the considerations that the sites were the subject to a previously approved applications for the same use submitted by the same applicants. The planning circumstances of the current applications are similar to these 4 applications.

11.5 Regarding the adverse public comments mentioned 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.

Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 20.5.2026, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- 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**.

12.2 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 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 within the “V” zone for more 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 25.3.2022
Appendix Ia	Further Information received on 27.4.2022
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Application
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 Man Uk Pin Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos