

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-MUP/176 and 177

<u>Applicants</u>	: Mr CHENG Chee Keung Mr CHEUNG Chi Lam Joey	(Application No. A/NE-MUP/176) (Application No. A/NE-MUP/177)
	all represented by Mr PANG Hing Yeun	
<u>Sites</u>	: Lot 55 S.A in D.D. 46 Lot 55 S.B in D.D. 46	(Application No. A/NE-MUP/176) (Application No. A/NE-MUP/177)
	all in Tai Tong Wu, Sha Tau Kok, New Territories	
<u>Site Areas</u>	: 160.6m ² (about) 166.7m ² (about)	(Application No. A/NE-MUP/176) (Application No. A/NE-MUP/177)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)	
<u>Plan</u>	: Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11	
<u>Zoning</u>	“Agriculture” (“AGR”)	
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House)	

1. The Proposals

1.1 The applicants, who claim to be indigenous villagers¹, are seeking planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Tai Tong Wu Village (**Plans A-1 and A-2a**). The Sites fall 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 Sites are currently vacant.

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

Total Floor Area	: 195.09m ²
Number of Storeys	: 3

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claim to be indigenous villagers of Kuk Po and Fung Hang respectively. Their eligibility for Small House concessionary grant is yet to be ascertained.

Building Height : 8.23m
Roofed Over Area : 65.03m²

- 1.3 Layouts and access plans of the proposed Small Houses (including septic tanks) of applications No. A/NE-MUP/176 and 177 are shown in **Drawings A-1 and A-2**, and **Drawings A-3 and A-4** respectively. The applicants indicate that the uncovered areas of the Sites would be used as open areas for the Small Houses.
- 1.4 Each of the Sites is the subject of a previous application (No. A/NE-MUP/133 and 134) submitted by the same applicant for the same use (**Plans A-1 and A-2a**), which were approved by the Rural and New Town Planning Committee (the Committee) on 18.5.2018. Details of the previous applications are set out in paragraph 5.1 below.
- 1.5 In support of the applications, the applicants have submitted the application forms with attachments (**Appendices Ia and Ib**), which were received on 20.12.2022.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in the Application Forms at **Appendices Ia and Ib**, and summarized as follows:

- (a) the applicants are indigenous villagers and are each entitled to a Small House grant in accordance with the Small House policy;
- (b) the Sites fall within the village ‘environs’ (‘VE’) of Tai Tong Wu Village. The proposed Small House developments are compatible with the surrounding environment and land uses; and
- (c) there were similar applications approved in the vicinity.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the sole “current land owners” of their respective lots. 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 Applications

- 5.1 Each of the Sites is the subject of a previous approved application (No. A/NE-MUP/133 and 134) respectively submitted by the same applicant for the same use, and both applications were approved with conditions by the Committee on 18.5.2018 mainly on sympathetic considerations that the applications generally complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within

the 'VE' of Tai Tong Wu Village; the Sites were in close proximity to the existing village proper of Tai Tong Wu Village, and there were approved Small House applications in the vicinity.

- 5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown in **Plans A-1 and A-2a**.

6. Similar Applications

- 6.1 There have been 17 similar applications for Small House development in the vicinity of the Sites within / partly within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 For the 16 approved applications, nine applications (No. A/NE-MUP/40, 49, 67, 70, 110, 111, 112, 113 and 114) were approved with conditions by the Committee between February 2002 and May 2015 (i.e. before the formal adoption of a more cautious approach since August 2015²) mainly on the grounds that more than 50% of the proposed Small House footprints fell within the 'VE'; there was a general shortage of land within "Village Type Development" ("V") zone in meeting the Small House demand at the time of consideration; and the proposed Small House developments were not incompatible with the surrounding rural landscape character and would unlikely generate significant adverse impacts on the surrounding area.
- 6.3 Seven applications (No. A/NE-MUP/120, 124, 129, 130, 131, 132 and 161) were approved by the Committee between January 2016 and October 2021 (i.e. after the formal adoption of a more cautious approach since August 2015) mainly on the grounds that the Sites were located in close proximity to the existing village cluster of Tai Tong Wu Village; there were approved Small House applications nearby forming a new cluster in the locality; and/or the Sites were the subject of previous approved applications submitted by the same applicants.
- 6.4 One application (No. A/NE-MUP/48) was rejected by the Committee on 25.6.2004 mainly on the grounds that the proposed Small House development did not comply with the Interim Criteria in that the entire application site was outside the "V" zone; and the majority of the application site and footprint of the proposed Small House was outside the 'VE' of Tai Tong Wu Village.
- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

7. The Sites and Its Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Sites are:
- (a) flat, vacant and partly paved; and
 - (b) accessible via a footpath.

² Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character where village houses and fallow agricultural land are found;
- (b) to the west is the village proper of Tai Tong Wu Village; and
- (c) to the southeast is vacant land, which is the subject of two similar planning applications (No. A/NE-MUP/178 and 179) to be considered at the same meeting.

8. **Planning Intention**

8.1 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 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 footprints of the proposed Small Houses fall entirely within “AGR” zone.
2.	Within ‘VE’? - The Sites - Footprints of the proposed Small Houses	100% 100%		District Lands Office/North, Lands Department (DLO/N, LandsD) advises that the Sites and the footprints of both proposed Small Houses fall entirely within the ‘VE’ of Tai Tong Wu Village.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> Land required to meet the Small House demand in Tai Tong Wu Village village cluster: about 3.23 ha (equivalent to 129 Small House sites). The number of outstanding Small House applications for Tai Tong Wu Village village cluster is 19 ³ while the 10-year Small House demand forecast for the same village cluster is 110.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> Land available to meet the Small House demand within the “V” zone of Tai Tong Wu Village village cluster: about 1.27 ha (equivalent to 50 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 applications from agricultural point perspective as the Sites possess potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are also available. The Sites can be used for agricultural activities such as greenhouses and plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		The proposed Small Houses are not incompatible with the surrounding areas predominated by village houses.
6.	Within Water Gathering Grounds (WGGs)?		✓	Chief Engineer/Construction, Water Supplies (CE/C, WSD) has no objection to the applications.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access		✓	Director of Fire Services (D of FS) has no in-principle objection to the applications. The applicants are reminded to observe ‘New Territories

³ Among the 19 outstanding Small House applications, 10 of them fall within the “V” zone and nine straddle or outside the “V” zone. For those nine applications straddling or being outside the “V” zone, one of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	(EVA)?			Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.
9.	Traffic impact?	✓		Commissioner for Transport (C for T) advises that Small House developments should be confined within the “V” zone as far as possible. Notwithstanding the above, each application involving the construction of one Small House can be tolerated.
10.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Sewage impact?		✓	Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.
12.	Landscape impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from landscape planning perspective. Significant adverse impact arising from the proposed developments is not anticipated.
13.	Local objection conveyed by DO?		✓	District Officer (North), Home Affairs Department (DO(N), HAD) advises that he has consulted the locals. The Resident Representative (RR) of Tai Tong Wu Village supports the applications while other consultees, including the Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Councilor of N16 Constituency and the Indigenous Inhabitant Representative (IIR) of Tai Tong Wu Village, have no comments on the applications.

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) CTP/UD&L, PlanD;
- (e) CE/MN, DSD;
- (f) DAFC;
- (g) D of FS; and
- (h) DO(N), HAD.

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

On 30.12.2022, the applications were 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 applications. Two individuals object to the applications mainly on the grounds of traffic congestion, environmental pollution and fire risk from the proposed developments; and land is still available within “V” zone to meet the future Small House demand; and approval would lead to unfettered expansion of Small House development and inefficient use of land.

11. Planning Considerations and Assessments

- 11.1 These applications are for a proposed Small House on each of the Sites, which fall entirely within “AGR” zone on the OZP. The proposed 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 agricultural development point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 The Sites are situated in an area of rural landscape character predominated by village houses and fallow agricultural land. The proposed Small Houses are not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the applications as significant adverse landscape impact arising from the proposed developments is not anticipated. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that each application involves one Small House only, the applications could be tolerated from traffic impact perspective. Other relevant government departments consulted, including DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no objection to or no comment on the applications.
- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small Houses for Tai Tong Wu Village is 19 while the 10-year Small House demand forecast is 110. Based on PlanD’s latest estimate, about 1.27 ha (equivalent to 50 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zone of Tai Tong Wu Village is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications (**Plan A-2b**). It should be noted that the Board has formally adopted a more cautious approach in approving

applications for Small House development since August 2015. 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 also noted that there are approved Small House applications at different stages of development nearby, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Besides, each of the Sites is the subject of a previous approved application submitted by the same applicant for the same use. Compared with the previous applications, the major development parameters and footprints of the proposed Small Houses under the current applications are generally the same. In this regard, sympathetic consideration might be given to the applications.

- 11.4 There are 17 similar applications for Small House developments in the vicinity of the Sites. Amongst them, seven were approved by the Committee between January 2016 and October 2021 after the Board’s formal adoption of a more cautious approach mainly on the grounds that the Sites were located in close proximity to the existing village cluster of Tai Tong Wu Village; there were approved Small House applications nearby forming a new cluster in the locality; and/or the Sites were the subject of previous approved applications submitted by the same applicants. The planning circumstances of the current applications are similar to approved applications located in the close vicinity of the Sites.
- 11.5 Regarding the local objections conveyed by DO(N) of HAD in paragraph 9.1 and the public comments in paragraph 10, the government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 17.2.2027, and after the said date, the permissions 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 a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses for each of the applications are attached at **Appendix VII**.

12.3 Alternatively, should the Committee decide to reject the applications, the following reason for rejection is suggested for Members' reference:

- 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.

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 20.12.2022
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (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
Drawings A-1 and A-2	Proposed Layout Plan and Access Plan of No. A/NE-MUP/176
Drawings A-3 and A-4	Proposed Layout Plan and Access Plan of No. A/NE-MUP/177
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the "Village Type Development" ("V") zone of Tai Tong Wu Village
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2023**