

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-MUP/184

Applicant : Mr CHUNG Hon Ming represented by Glister Engineering Consultants Company

Site : Lot 326 S.A ss.1 S.C in D.D. 37, Man Uk Pin Village, Sha Tau Kok, New Territories

Site Area : 244m² (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 to be an indigenous villager¹, is seeking planning permission to build a NTEH (Small House) on the application site (the Site) in Man Uk Pin Village (**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	: 195.09m ²
Number of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m ²

1.3 The layout and access plan of the proposed Small House (including septic tank) are shown in **Drawing A-1**. The applicant indicates that the uncovered areas of the Site would be used as a garden area for the Small House.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claims to be an indigenous villager of Man Uk Pin. His eligibility for Small House concessionary grant is yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted an Application Form with attachments (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**, and summarized as follows:

- (a) the applicant is an indigenous villager and is entitled to Small House grant in accordance with the Small House policy;
- (b) the Site falls within the village ‘environs’ (‘VE’) of Man Uk Pin Village. The proposed Small House development is compatible with the surrounding environment and land uses; and
- (c) there are similar applications approved in the vicinity.

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

The applicant is the sole “current land owner” of the respective 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

There is no previous application for the Site.

6. Similar Applications

- 6.1 There have been 30 similar approved applications for Small House development in the vicinity of the Sites within / partly within the same “AGR” zone since the promulgation of the Interim Criteria on 7.9.2007.
- 6.2 25 applications (No. A/NE-MUP/56, 57, 58, 59, 60, 61, 62, 64, 81, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 115, 116, 117, 118 and 119) were approved with conditions by the Committee between July 2008 and August 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

² Among 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.

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 areas.

- 6.3 Five applications (No. A/NE-MUP/127, 162, 163, 164 and 165) were approved by the Committee between April 2017 and May 2022 (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 subject “V” zone; there were approved Small House applications in the vicinity at different stages of development forming a new cluster in the locality; and all of the Sites were the subject of previous approved applications submitted by the same applicants.
- 6.4 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

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

7.1 The Site is:

- (a) flat, vacant and paved;
- (b) located to the west of the village proper of Man Uk Pin Village; and
- (c) accessible via a footpath.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character where village houses, active/fallow agriculture land and clusters of trees are found;
- (b) to the immediate west, north, northeast and east are existing Small Houses and approved Small House developments; and
- (c) to the immediate south is fallow agricultural land, and to the further south are existing Small Houses.

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 application has 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 Site - Footprint of the proposed Small House		100% 100%	The Site and footprint of the proposed Small House fall entirely within “AGR” zone.
2.	Within ‘VE’? - The Site - Footprints of the proposed Small House	100% 100%		District Lands Office/North, Lands Department (DLO/N, LandsD) advises that the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Man Uk Pin Village.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)? Sufficient land in “V” zone to meet outstanding Small House applications?	 ✓	✓	<u>Land Required</u> Land required to meet the Small House demand in Man Uk Pin Village village cluster: about 12.28 ha (equivalent to 491 Small House sites). The number of outstanding Small House applications for Man Uk Pin Village village cluster is 43 ³ while the 10-year Small House demand forecast for the same village cluster is 448. <u>Land Available</u> Land available to meet the Small House demand within the “V” zone of Man Uk Pin Village village cluster: about 2.14 ha (equivalent to 85 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 perspective as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures

³ Among the 43 outstanding Small House applications, 28 of them fall within the “V” zone and 15 straddle or outside the “V” zone. For those 15 applications straddling or falling outside the “V” zone, five of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				such as road access and water sources are also available. The Site can be used for agricultural activities such as greenhouses and plant nurseries, etc.
5.	Compatible with surrounding area/development?	✓		The proposed Small House is not incompatible with the surrounding areas predominated by village houses, farmland and clusters of trees.
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 (EVA)?		✓	Director of Fire Services (D of FS) has no in-principle objection to the applications. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		<p>Commissioner for Transport (C for T) advises that Small House developments 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 case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</p> <p>Notwithstanding the above, the application involving the construction of one Small House only could be tolerated.</p>
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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				proposal is required.
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.	Landscape impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective. Significant adverse impact arising from the proposed development 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 Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Councilor of N16 constituency and the Resident Representative (RR) of Man Uk Pin Village have no comments on the application. The Indigenous Inhabitant Representative (IIR) of Man Uk Pin Village has not replied HAD.

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

- (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 V)

On 31.3.2023, 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. One individual objects to the application mainly on the grounds that 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 The application is for a proposed Small House on the Site, which falls entirely within “AGR” zone 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 development 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 also available.
- 11.2 The Site is situated in an area of rural inland plains landscape character surrounded by village houses, active/fallow agricultural land and clusters of trees. The proposed Small House is not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact arising from the proposed development 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 the application involves one Small House only, the application 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 application.
- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small Houses for Man Uk Pin Village is 43 while the 10-year Small House demand forecast is 448. Based on PlanD’s latest estimate, about 2.14 ha (equivalent to 85 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zone of Man Uk Pin 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, the Site is surrounded by existing Small Houses and approved Small House developments to the west, north, northeast and east, and existing Small Houses in the south. Hence, the Site could be considered as an infill site among existing and approved Small House sites. There are also some approved Small House Grants to the southwest of the Site. The implementation of which together with the approved Small House applications at different stage of development nearby the Site, are forming a new village cluster in the locality (**Plan A-2a**). In this regard, sympathetic consideration might be given to the application.

- 11.4 There are 30 similar applications for Small House developments in the vicinity of the Sites. Amongst them, five (Application Nos. A/NE-MUP/127, 162, 163, 164 and 165) were approved by the Committee between April 2017 and May 2022 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 subject "V" zone; there were approved Small House applications in the vicinity at different stages of development forming a new cluster in the locality; and all of the Sites were the subject of previous approved applications submitted by the same applicants. Notwithstanding that there is no previous approved application for the Site under the current application, the planning circumstances of the current application as an infill site among existing and approved Small Houses sites are considered similar to these approved applications.
- 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 application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 19.5.2027, 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 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 the application are attached at **Appendix VI**.

- 12.3 Alternatively, should the committee decide to reject the application, the following reason for rejection is 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

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 received on 21.3.2023
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan and Access Plan of No. A/NE-MUP/184
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 Man Uk Pin Village
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2023**