

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/186

<u>Applicant</u>	:	Mr. CHAN Sui Ching represented by Mr. Hui Kwan Yee
<u>Site</u>	:	Lot 144 S.A in D.D. 46, Tai Tong Wu Village, Sha Tau Kok, New Territories
<u>Site Area</u>	:	194m ² (about)
<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>	:	(i) "Agriculture" ("AGR") (about 98% of the Site) (ii) "Village Type Development" ("V") (about 2% of the Site) ¹
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims to be an indigenous villager², 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	:	195.09m ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

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

¹ About 4m² (i.e. 2%) of the Site falls within the "V" zone, which is considered as minor boundary adjustment and not included in the planning assessment.

² As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claims to be an indigenous villager of Luk Keng Chan Uk. His eligibility for Small House grant is yet to be ascertained.

- 1.4 The Site is the subject of two previous applications (No. A/NE-MUP/65 and 175) for the same use. Application No. A/NE-MUP/65 submitted by a different applicant was approved by the Rural and New Town Planning Committee (the Committee) on 6.5.2011 whilst application No. A/NE-MUP/175 submitted by the same applicant was rejected by the Committee on 13.1.2023. Details are set out in paragraph 5.1.
- 1.5 In support of the application, the applicant has submitted an Application Form with attachments (**Appendix I**), which were received on 12.4.2022.

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 Site is vacant and suitable for Small House development;
- (b) no other land is available for Small House development; and
- (c) there are Small Houses built in the vicinity.

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 Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-MUP/65 and 175) for the same use. Application No. A/NE-MUP/65 was submitted by a different applicant and was approved with conditions by the Committee on 6.5.2011 (i.e. before the formal adoption of a more cautious approach by the Board since August 2015³) mainly on the grounds that the application generally complied with the Interim Criteria in that the footprint of the proposed Small House fell mostly within the village ‘environ’ (‘VE’) and there was a general shortage of land within the “V” zone at the time of consideration; the proposed development was not incompatible with the surrounding areas; and significant adverse impacts were not anticipated. The validity of the planning permission was extended once until 6.5.2018 under the application (No. A/NE-MUP/65-1). The planning permission lapsed on 7.5.2018.

³ 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.

- 5.2 Application.No. A/NE-MUP/175 was submitted by the same applicant and was rejected by the Committee on 13.1.2023 mainly on consideration that the proposed development was not in line with the planning intention of “AGR” zone and land was still available within the “V” zone of Tai Tong Wu for Small House development.
- 5.3 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

6. Similar Applications

- 6.1 There have been three similar applications (No. A/NE-MUP/41, 43 and 66) 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. These applications were approved by the Committee between February 2002 and May 2011, before the Board’s formal adoption of a more cautious approach since August 2015, 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 “V” zone in meeting the Small House demand at the time of consideration; and the proposed Small Houses would unlikely generate significant adverse impacts on the surrounding areas.
- 6.2 Details of the similar applications are summarized at **Appendix IV**.

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 Plans A-4)

- 7.1 The Site is:
- (a) flat, vacant and covered with grass; and
 - (b) accessible via a local track from Sha Tau Kok – Wo Hang.
- 7.2 The surrounding areas are of rural landscape character comprising vegetated areas, village houses and woodlands.

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 at **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	2% –	98% 100%	- The Site falls mostly within an area zoned “AGR” while the footprint of the proposed Small House falls entirely 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 3.2 ha (equivalent to 129 Small House sites). The outstanding Small House applications for Tai Tung Wu are 19 ⁴ while the 10-year Small House demand forecast for the same village is 110.
	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 1.27 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 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.

⁴ Among the 19 outstanding Small House applications, 10 of them fall within the “V” zone and 9 straddle or outside the “V” zone. For those 9 applications straddling or outside the “V” zone, 5 have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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?	✓		<p>- 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 case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</p> <p>- Notwithstanding the above, the application only involves construction of one Small House could be tolerated unless it is rejected on other grounds.</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 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 incumbent North District

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Councilor of N16 Constituency, the Indigenous Inhabitant Representative and the Resident Representative of Tai Tong Wu, 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;
- (i) CHE/NTE, HyD; and
- (j) DO(N), HAD.

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

On 21.4.2023, 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. The Kadoorie Farm and Botanic Garden Corporation and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone and there is still land available in the “V” zone for Small House 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. There is no strong justification in the current submission for a departure of the planning intention.

11.2 The Site is situated in an area of rural landscape character comprising vegetated areas, village houses and woodlands. 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.

- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House for Tai Tong Wu 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" zones of the 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 in 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.
- 11.4 The Site is the subject of two previous applications for Small House development. Application no. A/NE-MUP/175 was submitted by the same applicant and was rejected by the Committee in 2023, after the Board's formal adoption of a more cautious approach, mainly on the grounds that the proposed development was not in line with the planning intention of "AGR" zone and land was still available within the "V" zone of Tai Tong Wu for Small House development. There has been no major change in planning circumstances of the area since the rejection of the previous application.
- 11.5 Three similar applications for Small House development in the vicinity of the Site were approved by the Committee, before the Board's formal adoption of a more cautious approach, mainly on the grounds that more than 50% of the proposed Small House footprints fell within the 'VE'; and there was a general shortage of land within "V" zone in meeting the Small House demand at the time of consideration. The planning circumstances of the current application are different from the approved applications.
- 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, the Planning Department does not support the application for the following reasons:
- (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 Village 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.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.6.2027, 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 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 application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I	Application Form with attachments received on 23.3.2023
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 Photos