

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-MUP/189 to 191

<u>Applicants</u>	: Mr. CHUNG Ryan Yat Fung Mr. TONG Kwai Ming Mr. CHUNG Wai Chuen Andy	(Application No. A/NE-MUP/189) (Application No. A/NE-MUP/190) (Application No. A/NE-MUP/191)
	all represented by Mr. LIU Wai Koon	
<u>Sites</u>	: Lot 328 S.D in D.D. 37 Lot 328 S.F in D.D. 37 Lot 328 S.H in D.D. 37	(Application No. A/NE-MUP/189) (Application No. A/NE-MUP/190) (Application No. A/NE-MUP/191)
	all in Man Uk Pin, Sha Tau Kok, New Territories	
<u>Site Areas</u>	: 166m ² 182m ² 164m ²	(Application No. A/NE-MUP/189) (Application No. A/NE-MUP/190) (Application No. A/NE-MUP/191)
<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 themselves to be indigenous villagers of Man Uk Pin Village¹, are seeking planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Man Uk Pin 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) in the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Sites are currently vacant and covered with vegetation.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants are indigenous villagers of Man Uk Pin Village. Their eligibilities for Small House grants are yet to be ascertained.

1.2 Details of each of the three proposed NTEHs (Small Houses) 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 Layouts of the proposed Small Houses (including septic tanks) are shown in **Drawings A-1 to A-3** respectively. The applicants indicate that the uncovered areas of the Sites would be used for gardens.

1.4 Each of the Sites is the subject of a previous application (No. A/NE-MUP/93, 88 and 94 respectively) submitted by the same applicant for the same use (**Plans A-1 and A-2a**), which was approved by the Rural and New Town Planning Committee (the Committee) in 2014. Details of the previous applications are set out in paragraph 5.1 below. Compared with the previous applications, the major development parameters and the layouts of the Small Houses are generally the same as the current ones.

1.5 In support of the applications, the applicants have submitted Application Forms with attachments (**Appendices Ia to Ic**) and Further Information (FI) (**Appendix Id**) which were received on 3.7.2023 and 22.8.2023 respectively.

2. Justifications from the Applicants

The applicants indicate that the proposed Small Houses are for their own use as mentioned in the Application Forms at **Appendices Ia to Ic**.

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 previously approved application (No. A/NE-MUP/93, 88 and 94 respectively) as mentioned in paragraph 1.4 above. They were approved mainly on the grounds 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 Man Uk Pin Village and there was insufficient land within the “Village Type Development” (“V”) zone of Man Uk Pin Village at the time of consideration. Applications for extension of time for commencement of the approved development for each of the Sites were subsequently approved. The planning permissions of

A/NE-MUP/88 lapsed on 25.4.2022 and A/NE-MUP/189 and 191 lapsed on 9.5.2022 respectively.

- 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 24 similar applications for Small House development in the vicinity of the Sites within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 19 applications (No. A/NE-MUP/56, 57, 58, 59, 60, 61, 62, 64, 89, 90, 91, 92, 95, 96, 97, 98, 116, 117 and 118) were approved by the Committee or by the Board on review between July 2008 and July 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 the “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 areas.
- 6.3 Four applications (No. A/NE-MUP/162, 163, 164 and 165) were approved by the Committee between December 2021 and May 2022 (i.e. after the formal adoption of a more cautious approach since August 2015) mainly on the ground that the Sites were the subject of previously approved planning applications submitted by the same applicants for the same use.
- 6.4 The remaining one (No. A/NE-MUP/184) was approved by the Committee on 19.5.2023 mainly on sympathetic consideration that there were approved Small House applications in the vicinity at different stages of development forming a new cluster in the locality and the application was considered as an infill site among the existing and approved Small House sites.
- 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) vacant and covered with vegetation;
 - (b) in close vicinity to an existing streamcourse to the east; and
 - (c) not accessible by any vehicular access;

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 are predominantly rural inland plains landscape character surrounded by village houses, farmland and tree clusters.

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 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 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 the proposed Small Houses 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)?		✓	<u>Land Required</u> Land required to meet the Small House demand in Man Uk Pin Village: about 12.28 ha (equivalent to 491 Small House sites). The number of outstanding Small House applications for Man Uk Pin Village is 43 ³ while the 10-year Small House demand forecast for the same village is 448.
	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 Man Uk

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, 6 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Pin Village: 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 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. DAFC advises that a natural stream, which is the downstream section of the Ecologically Important Stream at Man Uk Pin, is located adjacent to the Sites. The applicants should advise if the proposed use would affect the natural stream nearby, and if any mitigation / preventive measures would be undertaken.
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 applicants are 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 applications and advises that Small House developments

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments 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, each application only involving the construction of one Small House could be tolerated.</p>
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. All consultees, including the Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Councilor of N16 Constituency, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Man Uk Pin, have no comment.

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 11.7.2023, the applications were published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the applications. Three individuals object to the applications mainly on the grounds that the proposed use is not in line with the planning intention of AGR zone; land is still available within “V” zone to meet the future Small House demand; and the previous planning permissions were approved before the more cautious approach adopted by the Board in August 2015. One individual raises concern about adverse environmental, drainage and traffic impacts on the surrounding areas of proposed Small Houses.

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. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc.
- 11.2 The Sites are situated in an area of rural inland plains landscape character surrounded by village houses, farmland and tree clusters. 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. From natural conservation point of view, DAFC has concern on the applications as the proposed developments are in close proximity the natural stream to the east of the Sites. Nevertheless, DEP has no objection to the applications as the Sites are in small scale, the proposed Small Houses would unlikely cause major pollution to the area. According to the FI, the septic tanks are proposed away from the stream to minimize the change of contamination, DEP opines that the

proposed septic tank and soakaway system could be an interim measure for sewerage disposal by following the requirements of the ProPECC PN 5/93, in particular the requirement for percolation test and clearance distance from streams. Other relevant government departments consulted, including 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 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, each of the Sites is the subject of a previously 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. Furthermore, as advised by DLO/N, the applications for Small House Grant for the Sites are still being processed. In this regard, sympathetic consideration might be given to the applications.
- 11.4 There are 24 similar applications for Small House developments in the vicinity of the Sites. Among them, four (No. A/NE-MUP/162, 163, 164 and 165) were considered after the Board's formal adoption of a more cautious approach and were approved by the Committee between December 2021 and May 2022 mainly on sympathetic consideration that the Sites were the subject of previously approved applications submitted by the same applicants for the same use. The planning circumstances of the current applications are similar to these approved applications.
- 11.5 Regarding 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 25.8.2027, 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 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. There is no strong planning justification in the submissions 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 to Ic	Application Forms with Attachments received on 3.7.2023
Appendix Id	FI received on 22.8.2023
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
Drawing A-1	Proposed Layout Plan of No. A/NE-MUP/189
Drawing A-2	Proposed Layout Plan of No. A/NE-MUP/190
Drawing A-3	Proposed Layout Plan of No. A/NE-MUP/191
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the "V" zone of Man Uk Pin Village
Plan A-3	Aerial Photo
Plan A-4	Site Photo