

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-MUP/206**

**Applicant** : Mr. Fu Declan Ze Xing represented by Grandmax Surveyors Limited

**Site** : Lot 334 S.F in D.D. 37, Man Uk Pin Village, Sha Tau Kok, New Territories

**Site Area** : About 224.6 m<sup>2</sup>

**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 as an indigenous villager of Man Uk Pin<sup>1</sup>, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Man Uk Pin Village, Sha Tau Kok. The Site falls within an area zoned “AGR” on the OZP (**Plan A-1**). 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 within “AGR” zone and requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and covered with grass.

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	:	195.09 m <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03 m <sup>2</sup>

1.3 The Site is accessible via a local track leading to Wo Keng Shen Road (**Plan A-2**). The applicant indicates that the uncovered area of the Site will be used for garden. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.

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<sup>1</sup> As advised by the District Land Officer/North, Lands Department (DLO/N, LandsD), the applicant’s eligibility for Small House grant is yet to be ascertained.

- 1.4 The Site is part of the subject of two previous applications (No. A/NE-MUP/56 and 119) submitted by different applicants for proposed House (NTEH – Small House), which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 18.7.2008 and 7.8.2015 respectively. Details of the previous applications are set out in paragraph 5.1 below.
- 1.5 In support of the application, the applicant has submitted an Application Form with attachment received on 7.8.2024 (**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**, as summarised below:

- (a) sympathetic considerations should be given as not less than 50% of the footprint of the proposed Small House is within the village ‘environs’ (‘VE’);
- (b) the application is part of an approved previous application No. A/NE-MUP/119 for two proposed Small Houses, submitted by Mr. FU Ah Chun and Mr. CHUNG Kaiwan. Applications for these two Small Houses were submitted to the Lands Department (LandsD), but approval is still yet to be granted, while the planning permission expired on 7.8.2023. The applicant of the current application, as the grandson of Mr. FU Ah Chun (deceased in 2022), has succeeded the ownership of the Site, and he has also submitted a Small House application to LandsD recently;
- (c) the other applicant of application No. A/NE-MUP/119, Mr. CHUNG Kaiwan, subsequently submitted another planning application covering his proposed Small House (Application No. A/NE-MUP/201), which was approved by the Committee on 10.5.2024;
- (d) approval conditions under the planning permission of application No. A/NE-MUP/119 relating to the provision of septic tank, submission and implementation of drainage and landscape proposals have been complied with or partially complied with;
- (e) the Site is located in a village environment with village type houses. There is no change in environment and site condition since the approval of application No. A/NE-MUP/119. No adverse impact is anticipated;
- (f) there is a shortfall of land supply for Small House in meeting the Small House demand in Man Uk Pin Village; and
- (g) there are approved similar planning applications in the same “AGR” zone of the Site.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

#### **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application of 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/56 and 119, the former involved one proposed Small House and the latter involved two proposed Small Houses, submitted by different applicants from the current planning application<sup>2</sup>.
- 5.2 Both applications were approved with conditions by the Committee on 18.7.2008 and 7.8.2015 respectively<sup>3</sup> mainly on the considerations that the applications complied with the Interim Criteria in that the footprints of the proposed Small Houses fell entirely/more than 50% within the 'VE' and there was a shortage of land within the "Village Type Development" ("V") zone in meeting the Small House demand at the time of consideration; the proposed Small House developments were not incompatible with the surrounding areas; significant adverse impacts were not anticipated; and/or there were previous and similar applications approved in the vicinity.
- 5.3 For the last approved application No. A/NE-MUP/119, approval conditions on the provision of septic tank and submission of drainage and landscape proposals have been complied with, while the implementation of the drainage and landscape proposals have yet to be complied with. The validity of the planning permission was extended twice and lapsed on 7.8.2023.
- 5.4 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-2a**.

#### **6. Similar Applications**

- 6.1 There were 35 similar applications involving 23 sites for proposed House (NTEH – Small House) within the same "AGR" zone in the vicinity of the Site in Man Uk Pin area since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Among the 35 applications, 23 (Nos. A/NE-MUP/57 to 62, 64, 81, 88 to 98 and 115 to 118) were approved with conditions by the Committee or by the Board on review between 2009 and 2015 before the formal adoption of a more cautious approach in considering Small House application adopted by the Board since August 2015. They were approved mainly on the considerations that the applications generally complied with the Interim Criteria in 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 proposed Small House developments were not

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<sup>2</sup> Application No. A/NE-MUP/56 was submitted by Mr. CHUNG Kai-Wan. Application No. A/NE-MUP/119 was submitted by Mr. CHUNG Kaiwan and Mr. FU Ah Chun.

<sup>3</sup> These applications were considered by the Committee before the formal adoption of a more cautious approach in considering Small House application by the Board since August 2015. Among 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.

incompatible with the surrounding rural landscape character; and would unlikely generate significant adverse impacts on the surrounding areas.

- 6.3 The remaining 12 applications were approved by the Committee after the Board's formal adoption of a more cautious approach in considering Small House application since August 2015. 11 of them (application Nos. A/NE-MUP 127, 162 to 165, 189 to 191, 195, 196 and 201) were approved between 2017 and 2024 mainly on sympathetic considerations that the application sites were subject to previous approved applications submitted by the same applicants for Small House developments and the applications for Small House grant were being processed by LandsD. The remaining application No. A/NE-MUP/184 was approved in 2023 mainly on sympathetic consideration that the application site was considered as an infill site among existing and approved Small Houses.
- 6.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

- 7.1 The Site is:
- (a) vacant and covered with grass; and
  - (b) accessible via a local track leading to Wo Keng Shan Road.
- 7.2 The surrounding areas are of rural character mainly comprising village houses, active and fallow agricultural land and tree clusters. A "Green Belt" ("GB") zone is located to the further north of the Site.

## **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 summarised in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within "V" zone?			The Site and footprint of the proposed Small House fall entirely within the "AGR" zone.
	- Footprint of the proposed Small House	-	100%	
	- The Site	-	100%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	Within 'VE'?			The Site and the footprint of the proposed Small House fall entirely within the 'VE' of Man Uk Pin.
	- Footprint of the proposed Small House	100%	-	
	- The Site	100%	-	
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 Small House demand in Ma Uk Pin: about 12.3 ha (equivalent to 493 Small House sites). The outstanding Small House applications is 45 <sup>4</sup> while the 10-year Small House demand 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 Pin: about 2.2 ha (equivalent to about 88 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of "AGR" zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural perspective 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. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/development?	✓		The proposed development is not incompatible with the surrounding areas mainly comprising village houses, active and fallow agricultural land and tree clusters.
6.	Within Water Gathering Grounds (WGGs)?		✓	The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Environmental and sewerage impact?		✓	The 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.

<sup>4</sup> Among the 45 outstanding Small House applications, 29 fall within the "V" zone, and 16 straddle or fall outside the "V" zone. For those 16 applications straddling or falling outside the "V" zone, 11 of them have obtained valid planning approvals from the Board.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
10.	Traffic impact?	✓		The 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. Notwithstanding the above, the application only involves the development of one Small House and could be tolerated.
11.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection to the application.
12.	Landscaping impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD) has no objection to the application from the landscape planning perspective. Significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the proposed development is not anticipated.
13.	Local objections conveyed by DO?		✓	

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

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) CTP/UD&L, PlanD;
- (d) CE/MN, DSD;
- (e) CE/C, WSD;
- (f) DAFC; and

(g) D of FS.

9.3 The following government departments have no objection to/no comment on the application:

- (a) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

## **10. Public Comments Received During Statutory Publication Period**

On 16.8.2024, the application was published for public inspection. During the statutory public inspection period, two comments were received (**Appendix VII**). A member of the North District Council indicates no comment on the application. An individual objects to the application mainly on the grounds that there is sufficient land in the “V” zone for NTEH development and village house development should be confined in the “V” zone to avoid sprawl.

## **11. Planning Considerations and Assessments**

11.1 The application is for proposed Small House development 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 perspective as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention of the “AGR” zone.

11.2 The Site is situated in an area of rural character mainly comprising village houses, active and fallow agricultural land and tree clusters. The proposed Small House development is not incompatible with the surrounding areas. As significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed development is not anticipated, CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective. 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 the traffic impact perspective. Other relevant government departments consulted, including CE/E of WSD, CE/MN of DSD and D of FS have no objection to or no adverse comment on the application.

11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Man Uk Pin. According DLO/N of LandsD, the number of outstanding Small House applications for Man Uk Pin is 45 while the 10-year Small House demand forecast is 448. Based on PlanD’s latest estimate, about 2.2 ha (equivalent to about 88 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Man Uk Pin 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 formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among 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. In this regard, 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 previously approved applications (No. A/NE-MUP/56 and 119) submitted by different applicants from the current application, which were approved with conditions by the Committee on 18.7.2008 and 7.8.2015 respectively as detailed in paragraph 5.2 above. Planning approval of application No. A/NE-MUP/119 lapsed on 7.8.2023. The applicant of the current application claims that he is the grandson of one of the applicants of Application No. A/NE-MUP/119. It should be noted that according to the Interim Criteria (d) (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits. Sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, or the processing of the Small House grant is already at an advance stage. In this regard, the Site could not be regarded as an infill site among existing NTEHs/Small Houses as there are vacant areas to the east, south and west of the Site (**Plans A-2a and A-4**). Also, DLO/N of LandsD advises that the application for the Small House grant at the Site being processed is at an initial stage. There are no specific circumstances to justify the case for sympathetic consideration under Interim Criteria (d).
- 11.5 There were 35 similar applications involving 23 sites for proposed Small House developments within the same “AGR” zone in the vicinity of the Site in Man Uk Pin area (**Plan A-2a**). 23 of them were considered before the formal adoption of a more cautious approach in considering Small House application by the Board since August 2015. After August 2015, 12 applications were approved between 2017 and 2024 mainly on sympathetic considerations that the application sites were subject to previous approved applications submitted by the same applicants for Small House developments and the applications for Small House grant were being processed by LandsD, or the application site was considered as an infill site. These approved similar applications are subject to planning circumstance different from the current application.

## **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 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. It is also intended 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 which 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.



- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.10.2028, 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 Recommended Advisory Clauses are attached at **Appendix VI**.

### **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**

<b>Appendix I</b>	Application Form with Attachment received on 7.8.2024
<b>Appendix II</b>	Relevant Extracts of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Government Departments' General Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Appendix VII</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available for Small House Development within the "V" zone of Man Uk Pin
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2024**