

APPLICATIONS FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-MUP/144 and 145

- Applicants** : Mr. TANG Kok Kie (Application No. A/NE-MUP/144)
Mr. TSANG Hing Lun (Application No. A/NE-MUP/145)
all represented by Chuo Wang Development Consultant Limited
- Sites** : Lot 556 S.B (Application No. A/NE-MUP/144)
Lot 556 S.C (Application No. A/NE-MUP/145)
all in D.D. 46, Loi Tung, Sha Tau Kok, New Territories
- Site Areas** : 158 m² (about) (Application No. A/NE-MUP/144)
140.2 m² (about) (Application No. A/NE-MUP/145)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
- Zonings** : “Agriculture” (“AGR”)
(about 132m² or 84% of the site of Application No. A/NE-MUP/144);
(about 69.6m² or 50% of the site of Application No. A/NE-MUP/145);

“Village Type Development” (“V”)
(about 26m² or 16% of the site of Application No. A/NE-MUP/144);
(about 70.6m² or 50% of the site of Application No. A/NE-MUP/145)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposals

- 1.1 The applicants, who claimed to be indigenous villagers of Sha Tau Kok Heung¹, seeks planning permissions to build a NTEH (Small House) on each of the application sites (the Sites) in Loi Tung Village, Sha Tau Kok (**Plans A-1 and A-2a**). The Sites falls mostly within an area zoned “AGR” with a minor portion encroached onto “V” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted in “V” zone, such use in “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

¹ According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants of applications No. A/NE-MUP/144 and 145 claimed himself to be indigenous villagers of Loi Tung Village and Lai Chi Wo Village of Sha Tau Kok Heung respectively. Their eligibility for Small House grants have yet to be ascertained.

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

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

1.3 Layouts of the two proposed Small Houses (including septic tanks) under applications No. A/NE-MUP/144 and 145 are shown on **Drawings A-1 and A-2** respectively. The applicants indicate that the uncovered areas of the Sites would be used as circulation space.

1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) which were received by the Board on 24.10.2019.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in part 9 of the Application Forms in **Appendices Ia and Ib**. They can be summarised as follows:

- (a) the applicants are indigenous villagers of Loi Tung Village or Lai Chi Wo Village of Sha Tau Kok Heung. They are entitled for construction of Small Houses under the Small House Policy;
- (b) the Sites are located within the village ‘environs’ (‘VE’) of Loi Tung Village and are the only available lots owned by the applicants for building Small House;
- (c) the Indigenous Village of Lai Chi Wo is too remote and hence the applicant of No. A/NE-MUP/145 has purchased the subject lot for construction of Small House;
- (d) the Sites are currently covered by wild grass and there would be no tree felling or land filling involved in the application. Hence, adverse environment impact is not anticipated;
- (e) the ‘VE’ and “V” zone of Loi Tung village are small and land available for developing small house are limited; and
- (f) there are some approved Small House applications No. A/NE-MUP/39, 125 and 126 in the vicinity of the Sites (**Plan A-2a**).

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

The applicants are the “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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. 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 Sites.

6. Similar Applications

- 6.1 There are 9 similar applications involving 7 sites for Small House development within/partly within the “AGR” zone in the vicinity of the Sites in the Man Uk Pin Area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000 (**Appendix II**).
- 6.2 One application (No. A/NE-MUP/68) was rejected by the Committee on 3.6.2011 mainly on the grounds that the application did not comply with Interim Criteria in that majority of the footprint of the proposed Small House fell outside both the “V” zone and ‘VE’, and approval of the application would set an undesirable precedent for similar cases in the area.
- 6.3 Six applications (No. A/NE-MUP/39, 45, 46, 73 and 74 and 76) were approved with conditions by the Committee between January 2002 and November 2012 (i.e. before a more cautious approach is adopted by the Board) mainly on considerations that the applications complied with the Interim Criteria in that the sites fell entirely within the ‘VE’ and there was a general shortage of land within “V” zone in meeting the Small House demand; the proposed Small Houses would not have significant adverse traffic, environmental and drainage impacts on the surrounding areas; and concerned departments had no objection to / adverse comments on the applications. The other two applications (No. A/NE-MUP/125 and 126) were approved by the Committee in January 2017 (i.e. after the cautious approach being adopted by the Board) mainly for reason of being the subject of previously approved applications (No. A/NE-MUP/73 and 74).
- 6.4 Details of these similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1 and A-2a**.

7. The Sites and Their Surrounding Area (**Plans A-1, A-2a and A-2b, aerial photo on Plan A-3, and site photos on Plan 4**)

- 7.1 The Sites are:
 - (a) mainly covered by wild grasses (**Plan A-4**);
 - (b) located to the south of the village proper of Loi Tung Village (**Plan A-2a**); and
 - (c) not served by any vehicular access (**Plan A-2a**).
- 7.2 The surrounding areas have the following characteristics:
 - (a) a rural landscape character dominated by village houses and fallow agricultural land;
 - (b) to the northeast, north and northwest are existing village house / village houses under construction, approved planning applications for development of Small House and some Small House developments with their Small House grant

applications being processed/approved by DLO/N, LandsD (**Plan A-2a**). The “V” zone of Loi Tung Village is located to the immediate north of the Site; and

- (c) to the south, southeast and southwest are mainly fallow agricultural land, and to the further southwest is Heung Yuen Wai Highway (**Plans A-2a and A-3**).

8. Planning Intentions

8.1 The planning intention of the “AGR” zone in the Man Uk Pin area 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.

8.2 The planning intention of the “V” zone in the Man Uk Pin area is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provisions of infrastructures and services.

9. Comments from Relevant Government Departments

- 9.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - The Sites No. A/NE-MUP/144 16% 84% No. A/NE-MUP/145 50% 50% - Footprints of the proposed Small Houses No. A/NE-MUP/144 - 100% No. A/NE-MUP/145 33% 67% 			- The Sites and footprint of the proposed Small Houses mostly fall within an area zoned “AGR” and a portion of the Sites encroach onto an area zoned “V”.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - The Sites No. A/NE-MUP/144 86% 14% No. A/NE-MUP/145 100% - - Footprints of the proposed Small Houses No. A/NE-MUP/144 99% 1% No. A/NE-MUP/145 100% - 			- DLO/N, LandsD advises that the Sites and footprint of the proposed Small Houses fall mostly / entirely within the ‘VE’ of Loi Tung.

	<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 application plus 10-year Small House demand)?		✓	<p><u>Land Required</u></p> <p>- Land required to meet Small House demand in Loi Tung Village: about 12.7 ha (equivalent to 509 Small House sites). The outstanding Small House applications for Loi Tung village are 33² while the 10-year Small House demand forecast for the same villages is 476.</p> <p><u>Land Available</u></p> <p>- Land available to meet Small House demand within the “V” zone of the villages concerned: about 1.76 ha (equivalent to 70 Small House sites) (Plan A-2b).</p>
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	<p>- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation. The Sites are currently paved vacant land. Agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as open field cultivation, plant nurseries etc.</p> <p>- From nature conservation point of view, there is a watercourse located to the northwest of the Sites. Should the application be approved, the applicants should be reminded to implement good site practice so as not to pollute the stream nearby.</p>
5.	Compatible with surrounding area/ development?	✓		- The proposed developments are not incompatible with surrounding rural setting and environment dominated by village houses and fallow agricultural land (Plan A-2b).
6.	Within Water Gathering Grounds (WGGs)?		✓	

² Among the 33 outstanding Small House applications, 14 of them fall within the “V” zone and 19 straddle or outside the “V” zone. For those 19 applications straddling or being outside the “V” zone, 1 of them 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 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 should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments are not expected to be significant, such type of developments outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the applications involve the construction of two Small Houses. She considers that the applications can be tolerated unless they are rejected on other grounds.
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 development, the applications are unlikely to cause major pollution.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 point of view.
13.	Local objection conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that the Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Council (NDC) member of subject constituency, Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Loi Tung indicate no comment on the applications.

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

- (a) District Lands Officer/North, Lands Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;
- (c) Director of Environmental Protection;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Commissioner for Transport;
- (f) Director of Agriculture, Fisheries and Conservation;
- (g) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (h) Director of Fire Services; and
- (i) District Officer (North), Home Affairs Department.

9.3 The following Government departments have no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 1.11.2019, the applications were published for public inspection. During the statutory public inspection period, eight public comments were received for each application (**Appendix V**). The Chairman of Sheung Shui District Rural Committee supports the applications while a NDC member indicates no comment on the applications. The Kadoorie Farm and Botanic Garden, WWF-HK, the Hong Kong Bird Watching Society, Designing Hong Kong Limited and two individuals object to the applications mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; there are no information provided the applicants that they are indigenous villagers; the Site locates away from the village cluster; the setting of undesirable precedent to similar development in the area; and the use of septic tank should be phased out.

11. Planning Considerations and Assessments

- 11.1 The applications are for Small House development on Sites falling partly within “AGR” zone and partly within “V” zone on the OZP. The proposed Small House developments are not in line with the planning intention of the “AGR” zone which is intended 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. DAFC does not support the applications from the agriculture point of view as the Sites possess potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Loi Tung village is 33 while the 10-year Small House demand forecast for the same village cluster is 476. According to the latest estimate by PlanD, a total of about 1.76 ha (equivalent to 70 Small House sites) of land are available within the “V” zone of Loi Tung village for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the footprint of the proposed Small Houses fall mostly / entirely within the ‘VE’ of Loi Tung village.
- 11.3 The Sites are situated in an area of rural landscape character surrounded by village houses and fallow agricultural land, and the proposed Small House developments are not incompatible with the surrounding environment (**Plans A-2a** and **A-3**). CTP/UD&L, PlanD has no objection to the applications as significant adverse impact arising from the proposed use on existing landscape resources 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 proposed development only involves the construction of two Small Houses, the applications could be tolerated. Other Government departments consulted, including D of FS, CE/C of WSD and CE/MN of DSD, have no adverse comment on or no objection to the applications.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small Houses fall within the ‘VE’ of Loi Tung village (**Plan A-2a**). While land available within the “V” zone is insufficient to fully meet the future Small House demand of 509 Small House sites, it is noted that land (about 1.76 ha or equivalent to 70 Small House sites) is still available within the “V” zone to meet the 33 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. 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 developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, the locations of the proposed Small Houses are sandwiched between the boundary of “V” zone and the ‘VE’ of Loi Tung village, and there are already a number of existing Small Houses, approved planning applications for Small House development and some Small House grant applications being processed/approved by DLO/N, LandsD in close proximity of the Site forming a new village cluster in the locality (**Plans A-2a**). In this regard, sympathetic consideration might be given to the applications.
- 11.5 There are 6 similar applications for Small House development within/partly within the “AGR” zones in close proximity to the Site (**Plan A-2a**), four applications were approved by the Committee before a more cautious approach is adopted by the Board

mainly on considerations that the applications complied with the Interim Criteria in that the sites fell entirely within the ‘VE’ and there was a general shortage of land within “V” zone in meeting the Small House demand. After the cautious approach as adopted by the Board, two applications (No. A/NE-MUP/125 and 126) were approved by the Committee in January 2017 mainly for reason of being the subject of previously approved applications (No. A/NE-MUP/73 and 74) (**Plan A-2a**). The circumstances of the subject applications are not similar to those approved cases.

- 11.6 Regarding the adverse public comments as detailed in paragraph 10, the Government department’s comments and the planning assessment 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 each of the permissions shall be valid until 29.11.2023, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) 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 VI**.

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members’ reference:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone in the Man Uk Pin area 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 Loi Tung Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

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 24.10.2019
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “Agriculture” zone in the Man Uk Pin Area
Appendix IV	Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1 and A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Loi Tung Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
NOVEMBER 2019**