

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/140

- Applicant** : Mr. CHUNG Hon Ping represented by Ms. YU Tsz Shan
- Site** : Lot 614 S.A RP in D.D. 37, Man Uk Pin, Sha Tau Kok, New Territories
- Site Area** : 178.7 m²(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 claimed to be indigenous villager¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Man Uk Pin, Sha Tau Kok (**Plans A-1 and A-2a**). The Site falls within “AGR” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, ‘House (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).
- 1.2 Details of the proposed NTEH (Small House) 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 The applicant indicates that the uncovered area of the Site would be used as garden of the proposed Small House. Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.

¹ According to District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be indigenous villager of Man Uk Pin of Sha Tau Kok Heung. His eligibility for Small House concessionary grant has yet to be verified.

- 1.4 The Site is the subject of a previous planning application No. A/NE-MUP/108 submitted by the same applicant. That application was rejected by the Rural and New Town Planning Committee (the Committee) on 28.11.2014. When compared with the previous rejected application, all the development parameters including the site area, proposed layout and location of the septic tank are the same.
- 1.5 In support of the application, the applicant has submitted the Application Form with attachment (**Appendix I**) and the Further Information (**Appendix 1a**) which were received by the Board on 4.9.2018 and 15.10.2018 respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 9 of the Application Form in **Appendix I** and the Further Information at **Appendix 1a**. They can be summarized as follows:

- (a) the applicant is indigenous villager of Man Uk Pin Village and entitled for Small House grant under the Small House Policy;
- (b) there is insufficient land within the “Village Type Development” (“V”) zone of Man Uk Pin Village to meet the long-term Small House demand of the indigenous villagers, and there are practical difficulties for the applicant to acquire land within the “V” zone for Small House development;
- (c) the Site falls within the ‘village environs’ (‘VE’) of Man Uk Pin Village. The proposed Small House is compatible with the surrounding village environment;
- (d) the Site locates alongside the public road and abuts the existing village cluster to the west. It could blend in well with the existing village cluster;
- (e) the nearby watercourse is located at a distance of more than 15m from the Site (**Plan A-2a**) and septic tank would be provided for the proposed Small House to avoid causing pollution to the watercourse; and
- (f) the applicant will employ an engineer to prepare and submit drainage proposal with a view to improving the drainage condition of the area.

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

The applicant is the sole “current land owner”. 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

- 5.1 The Site is the subject of a previous planning application No. A/NE-MUP/108 for the current planning application No. A/NE-MUP/140 submitted by the same applicant for proposed NTEH (Small House). The application was rejected by the Committee on 28.11.2014 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone and land was still available within the “V” zone of Man Uk Pin Village where land was primarily intended for Small House development.
- 5.2 Details of the previous application are at **Appendix III** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 42 similar applications 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 Among these similar cases, 26 applications involving 22 sites to the west of the “V” zone of Man Uk Pin Village (**Plan A-1**) (No. A/NE-MUP/56 to 62, 64, 81, 88 to 98, 115 to 119 and 127) were approved by the Committee or by the Board on review between July 2008 and April 2017 (**Plan A-1**) mainly on the considerations that applications complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone in meeting the Small House demand; the proposed Small Houses were not incompatible with the surrounding area; and the proposed Small Houses would unlikely cause adverse environmental, drainage and traffic impacts.
- 6.3 There are another 16 similar applications to the east of the “V” zone of Man Uk Pin Village (**Plan A-1**). 15 of them (No. A/NE-MUP/99 to 104, 106, 107, 121 to 123, 128, 137 to 139) were rejected by the Committee or by the Board on review between November 2014 and September 2018 mainly on considerations that the proposed developments were not in line with the planning intention of the “AGR” zone and there was no strong planning justification in the submissions for a departure from the planning intention; and land was still available within the “V” zone of Man Uk Pin Village for Small House development. For the remaining application No. A/NE-MUP/35, it was approved with conditions by the Committee on 19.10.2001 mainly on considerations that the site was largely within the “V” zone and entirely within the ‘VE’ and similar to those of other approved cases as stated in paragraph 6.2 above.
- 6.4 Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

7. The Site and Its Surrounding Area (**Plans A-1, A-2a and A-2b, A-3 and A-4**)

- 7.1 The Site is:
- (a) mainly flat, vacant and covered by wild grass;
 - (b) located to the east of Man Uk Pin Village (**Plans A-2a and A-2b**); and

- (c) located alongside a public road and footpath.

7.2 The surrounding area has the following characteristics:

- (a) predominantly rural in character where village houses are found to the west, and active/ fallow agricultural land are found to the north, east and south;
- (b) to the immediate west are area zoned “Government, Institution or Community” (“G/IC”) which is the disused Man Uk Pin Public School and the existing Man Uk Pin Children’s Playground (**Plan A-2a**); and
- (c) there is a watercourse running in a northeast-southwest direction to the immediate east of the Site (**Plan A-2a**).

8. Planning Intention

The planning intention of the “AGR” zone in 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.

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 the footprint of the proposed Small House falls entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	DLO/N, LandsD advises that about 100% of the footprint of the proposed Small House falls within the ‘VE’ of Man Uk Pin.

	Criteria	Yes	No	Remarks
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet the Small House demand in Man Uk Pin: about 12.05 ha (equivalent to 482 Small House sites). The outstanding Small House applications for Man Uk Pin is 82 ² while the 10-year Small House demand forecast for the same village is 400. - Land available to meet the Small House demand within the “V” zone of Man Uk Pin for Small House development: about 3.30 ha (equivalent to 131 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agriculture point of view as the Site is fallow land covered with grasses. The agricultural activities in the vicinity are active. Agricultural infrastructure such as footpath and water source are available. The Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		The proposed Small House is not entirely incompatible with the surrounding rural environment dominated by fallow/ active agricultural land, vacant/ unused land and village houses (Plan A-2b).
6.	Within Water Gathering Grounds (WGGs)?		✓	
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 application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.

² Among the 82 outstanding Small House applications, 38 of them fall within the “V” zone and 44 straddle or outside the “V” zone. For those 44 applications straddling or being outside the “V” zone, 12 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - 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 developments 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 construction of one Small House. He considers that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - 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. - The Site is in the vicinity of an existing streamcourse. The applicant shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction.
11.	Sewage impact?		✓	<ul style="list-style-type: none"> - Director of Environmental Protection (DEP) has no objection to the application. - the Site does not fall within water gathering ground and there is no existing public sewer in the vicinity of the subject lot - the location of the soakaway system (not the septic tank) should meet the minimum clearance distance of 15m away from the watercourse (Plan A-2a). Besides, it is required to take appropriate

	Criteria	Yes	No	Remarks
				measures to prevent contaminated surface runoff from being discharged into streams during construction and operational stage of the projects.
12.	Landscaping impact?	✓		<ul style="list-style-type: none"> - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations on the application from the landscape planning point of view. - Compared with the previous application, there is no significant change in the rural landscape character where the Site is located. It comprises of largely farmlands (both active and fallow) and large tree groups surrounding the Man Uk Pin village. The Site is abutting a village track and is fallow vacant land covered with wild grasses without trees. - The proposed Small House is not entirely incompatible with the surrounding landscape setting and significant adverse landscape impact arising from the proposed Small House development is not anticipated. - Approval of the application will encourage similar applications to encroach into the “AGR” zone and irreversibly change the rural landscape character from farmlands to built-up areas. - Should the application be approved, an approval condition on submission and implementation of landscape proposal is recommended.
13.	Local objection conveyed by DO?		✓	District Officer (North) (DO(N)) has consulted the locals. The Chairman of Sha Tau Kok District Rural Committee (STKDRC), the incumbent North District Council member and the Resident Representative (RR) of Man Uk Pin had no comment on the application while the Indigenous Inhabitant Representative (IIR) supported 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) 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), Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Period

On 11.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments were received respectively (**Appendix VI**). A North District Council (NDC) member and the Chairman of Sheung Shui District Rural Committee indicate no comment on the application. Kadoorie Farm and Botanic Garden, World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society and one individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone for Small House development; potential adverse environmental and sewage impacts to the natural watercourse nearby; and approval of the application would set an undesirable precedent for similar applications in the area.

11. Planning Considerations and Assessments

11.1 The Site falls entirely within “AGR” zone. The proposed Small House 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 agriculture point of view as the Site possesses potential for agricultural rehabilitation.

11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Man Uk Pin is 82 while the 10-year Small House demand forecast for the same village is 400. According to the latest estimate by PlanD, a total of about 3.30 ha (equivalent to 131 Small House sites) of land are available within the “V” zone of Man Uk Pin for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the proposed Small House falls entirely within the ‘VE’ of Man Uk Pin.

11.3 The Site is currently vacant and covered by wild grasses (**Plans A-3 and A-4**) and is located to the east of Man Uk Pin Village in a typical rural setting comprising active/fallow agricultural land, tree groups and a few domestic structures. Whilst the proposed Small House is not entirely incompatible with the surrounding rural

environment and significant adverse landscape impact arising from the proposed Small House development is not anticipated, CTP/UD&L, PlanD has some reservations on the application from the landscape planning perspective. The Site is situated in an area of rural landscape character which comprises of largely farmlands (both active and fallow) and large tree groups surrounding the Man Uk Pin village. Although significant adverse landscape impact arising from the proposed development is not anticipated, approval of the application will encourage similar applications to encroach into the “AGR” zone and irreversibly change the rural landscape character from farmlands to built-up areas (**Plans A-3 and 4**). C for T has reservation on the application as such development should be confined within the “V” zone as far as possible but given that the proposed development only involves the construction of one Small House, the application could be tolerated. Other Government departments consulted, including DEP, CE/MN of DSD, HyD, WSD, FSD and CEDD, have no 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 House falls within the ‘VE’ of Man Uk Pin Village (**Plan A-2a**). While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is noted that land (about 3.30 ha or equivalent to 131 Small House sites) is still available within the “V” zone for Small House development and capable to meet the outstanding 82 Small House applications (**Plan A-2b**). 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 development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 11.5 The Site is the subject of a previous planning application No. A/NE-MUP/108 submitted by the same applicant for proposed NTEH (Small House) which was rejected by the Committee on 28.11.2014 on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone and land was still available within the “V” zone of Man Uk Pin Village where land was primarily intended for Small House development. There has not been any major change in planning circumstances of the area since the rejection of this previous application.
- 11.6 There are 42 similar applications for Small House development within / partly within the “AGR” zones in the vicinity of the Site (**Plan A-1**). The 26 approved applications were located to the west of Man Uk Pin Village. They were approved by the Committee between July 2008 and April 2017 mainly on considerations that the applications complied with the Interim Criteria in that more than 50% of the footprints of proposed Small Houses fell within the ‘VE’ and there was a general shortage within the “V” zone for Small House development; the proposed Small Houses were not incompatible with the surrounding areas; the developments would unlikely cause adverse impacts; and a new village cluster was being formed in the locality upon implementation of the approved Small House applications. Thus the circumstances are different from the current application (**Plans A-1 and A-2a**). For those applications to the east of Man Uk Pin Village, only one application (No. A/NE-MUP/35) was approved with conditions by the Committee on 19.10.2001 mainly on considerations that the site falls largely within “V” zone. The other 15 applications were rejected between November 2014 and September 2018 mainly on the grounds of not being in line with the planning intention of “AGR” zone and land was still available in “V” zone. The circumstances of the current application are similar to those rejected similar applications.

11.7 There are adverse public comments on the application mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone for Small House development; potential adverse environmental and sewage impacts to the natural watercourse nearby; and approval of the application would set an undesirable precedent for similar applications in the area. In this regard, 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 in 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 Man Uk Pin Village where land 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 2.11.2022, 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;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning 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 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 permissions 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 with Attachment received on 4.9.2018
Appendix Ia	Further Information received on 15.10.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the “Agriculture” zone in the Man Uk Pin Area
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 Man Uk Pin Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
NOVEMBER 2018**