

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/157

<u>Applicant</u>	:	Mr. TANG Hing Chuen represented by Mr. PANG Hing Yeun
<u>Site</u>	:	Lot 762 in D.D. 46, Loi Tung, Sha Tau Kok, New Territories
<u>Site Area</u>	:	283.3 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself an indigenous villager of Loi Tung in Sha Tau Kok Heung¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Loi Tung, Sha Tau Kok (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use in the “AGR” zone requiring planning permission from the Town Planning Board (the Board).

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

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Loi Tung, Sha Tau Kok Heung. His eligibility for Small House grant has yet to be ascertained.

1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received by the Board on 30.11.2020.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) the applicant, being an indigenous villager of Loi Tung Village, Sha Tau Kok, is entitled to build a Small House under the current Small House Policy;
- (b) the footprint of the proposed Small House falls mainly within the village ‘environs’ (‘VE’) of Loi Tung Village;
- (c) land available for Small House development is limited within the “V” zone of Loi Tung Village, where the largest parcel is occupied by a “fung shui” pond and the remaining land available is held by other villages nearby;
- (d) the applicant owns no other land and he has exhausted all his savings to purchase the Site from Tso Tong for Small House development;
- (e) there were approved applications for Small House development in the vicinity of the Site;
- (f) the proposed Small House is compatible with the surrounding area in that it is enclosed by a vehicular access to its southwest (**Drawing A-2**) and Small Houses on the remaining three sides;
- (g) the applicant had considered years ago applying for Small House grant on Government Land within the village, but since the Small House Policy has changed, he could only identify other suitable land for Small House development; and
- (h) the applicant commits to comply with all conditions to be imposed to ensure no adverse environmental impacts.

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

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

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Application

There is no previous application for the Site.

6. Similar Applications

- 6.1 There are 11 similar applications involving 9 sites for Small House development within / partly within the “AGR” zone in the vicinity of the Site in the Man Uk Pin area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Six applications (No. A/NE-MUP/39, 45, 46, 73, 74 and 76) were approved with conditions by the Committee between January 2002 and November 2012 (i.e. before a more cautious approach being adopted by the Board) mainly on the 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 the “V” zone in meeting the Small House demand; and the proposed Small Houses would not have significant adverse traffic, environmental and drainage impacts on the surrounding areas. 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). The remaining two applications (No. A/NE-MUP/144 and 145) were approved by the Committee in November 2019 mainly on sympathetic considerations that the locations of the proposed Small Houses were sandwiched between the boundary of the “V” zone and ‘VE’ of Loi Tung Village and there were 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 sites forming a new village cluster in the locality.
- 6.3 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 the Interim Criteria in that majority of the footprint of the proposed Small House fell outside both the “V” zone and ‘VE’.
- 6.4 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1 and A-2a**.

7. The Site and its Surrounding Areas (Plans A-1, A-2a and A-2b, aerial photo on Plan A-3 and site photos on Plan A-4)

- 7.1 The Site is:
- (a) currently used for parking of vehicles;
 - (b) located in close proximity to the “V” zone of Loi Tung Village; and
 - (c) accessible from Sha Tau Kok Road – Wo Hang via a local road (**Plan A-2a**).
- 7.2 The surrounding areas have the following characteristics:
- (a) an area of rural inland plain character predominated by village houses, fallow agricultural land and tree clusters;
 - (b) to the immediate northeast, southeast and west are village houses. To the further west outside the ‘VE’ of Loi Tung are parking of vehicles and two village houses, while to the further east are tree clusters;

- (c) to the south across the local road is the “V” zone of Loi Tung Village with village houses, some Small House grant applications being processed by LandsD, parking of vehicles, unused land, fallow agricultural land and a pond; and
- (d) to the immediate north is a plant nursery, while to the further north is Sha Tau Kok Road – Wo Hang, across which are storage use, plant nursery, fallow agricultural land and Ng Tung River.

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 in **Appendix II**. The assessment is summarised 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 footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	35.1% 65.2%	64.9% 34.8%	- DLO/N, LandsD advises that the Site and footprint of the proposed Small House falls partly within the ‘VE’ of Loi Tung.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Loi Tung Village: about 12.65 ha (equivalent to 506 Small House sites). The outstanding Small House applications for Loi Tung Village are 30 ² while the 10-year Small House demand forecast for the same village is 476.
	Sufficient land in “V” zone to meet	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Loi Tung

² Among the 30 outstanding Small House applications, 19 of them fall within the “V” zone and 11 straddle or outside the “V” zone. For those 11 applications straddling or outside the “V” zone, 2 of them have obtained valid planning approval from the Board.

	outstanding Small House application?			Village: about 1.77 ha (equivalent to 70 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		- The Site is enclosed on three sides by other Small Houses. The proposed development is not incompatible with the surrounding areas predominated by village houses, farmlands and tree groups (Plan A-2a).
6.	Within Water Gathering Grounds?		✓	
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 specific comment on the application. The applicant is 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 application and advises that Small House development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the application only involves construction of one Small House. She considers that the application can be tolerated unless being rejected on other grounds.

10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required for the application.
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective. - The Site is a concrete paved vacant land currently used as a parking space, and no existing trees are observed within the Site boundary. The Site is located in an area of rural inland plain character predominated by Small Houses, farmlands and tree clusters. The applied use is considered not incompatible with the landscape character of the surrounding area.
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 member of subject constituency, Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Loi Tung indicate no comment on the application.

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

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

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

- (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 (Appendix V)

On 8.12.2020, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Designing Hong Kong Limited and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; land is still available within the “V” zone for Small House development; setting of undesirable precedent for other similar applications within the “AGR” zone; and the proposed septic tank would cause water pollution.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House on the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation.

11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Loi Tung Village is 30 while the 10-year Small House demand forecast for the same village is 476. According to the latest estimate by PlanD, about 1.77 ha (equivalent to 70 Small House sites) of land are available in the “V” zone of Loi Tung Village for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Site falls partly within the ‘VE’ of Loi Tung Village.

11.3 The Site is situated in an area of rural inland plain character predominated by Small Houses, farmland and tree clusters. The proposed Small House development is not incompatible with the surrounding area (**Plan A-3**). CTP/UD&L, PlanD has no objection to the application as significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves construction of one Small House only, the application could be tolerated. Other relevant Government departments, including DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no adverse comment on / no objection to the application.

11.4 Regarding the Interim Criteria (**Appendix II**), about 65% of the footprint of the proposed Small House falls within the ‘VE’ of Loi Tung Village (**Plan A-2a**). While land available within the “V” zone of the concerned village is insufficient to fully meet the future Small House demand of 506 Small Houses, it is noted that land (about 1.77 ha or equivalent to 70 Small House sites) is still available within the “V” zone to meet the 30 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 development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is bounded by a number of existing Small Houses to the east and west and the boundary of the “V” zone to its south. Also, further proliferation of Small House development to the north of the Site outside the ‘VE’ of Loi Tung Village is unlikely as Small House grant application with site falling outside both the “V” zone and ‘VE’ of a recognised village will not be considered by DLO/N, LandsD under the Small House Policy. In this regard, sympathetic consideration might be given to the application.

- 11.5 There are 11 similar applications for Small House development within / partly within the “AGR” zone (**Plan A-1**). Six applications were approved by the Committee between 2002 and 2012 before a more cautious approach is adopted by the Board. One application was rejected by the Committee in 2011 mainly on the grounds that the application did not comply with the Interim Criteria in that majority of the footprint of the proposed Small House fell outside both the “V” zone and ‘VE’. After the cautious approach is 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. The remaining two applications (No. A/NE-MUP/144 and 145) (**Plans A-1 and A-2b**) were approved by the Committee in November 2019 mainly on sympathetic considerations that the locations of the proposed Small Houses were sandwiched between the boundary of the “V” zone and ‘VE’ of Loi Tung Village and there were 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 sites forming a new village cluster in the locality. The planning circumstances of the current application are similar to the approved applications No. A/NE-MUP/144 and 145.
- 11.6 Regarding the adverse public comments mentioned in paragraph 10 above, Government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 22.1.2025, 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 application, 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 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 where land 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.

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 permission 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 attachments received on 30.11.2020
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 "AGR" zones in the vicinity of the Site in the Man Uk Pin Area
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Access Plan
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
Plan A-4

Aerial Photo
Site Photos

PLANNING DEPARTMENT
JANUARY 2021