

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/188

- Applicant** : Mr. LIU Yuet Wa represented by Euro Asia Construction Engineering Limited
- Site** : Lot 198 S.A in D.D. 52, Sheung Shui Wa Shan, Sheung Shui, New Territories
- Site Area** : 142 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Fu Tei Au & Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who is an indigenous villager¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Sheung Shui Wa Shan, Sheung Shui (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Fu Tei Au and Sha Ling OZP No. S/NE-FTA/16. 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)’ in “AGR” zone is a Column 2 use 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 landscape area of the proposed Small House. Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.

1.4 In support of the application, the applicant has submitted the Application Form with attachment (**Appendix I**) which was received on 23.11.2018.

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

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**. They can be summarised as follows:

- (a) the applicant is an indigenous villager of Wa Shan Village and applied for Small House grant in 2014;
- (b) the Site is located within the village 'environs' ('VE') of Wa Shan Village and is only available lot owned by the applicant for building Small House;
- (c) there are a number of similar applications which were approved by the Board and the approved applications are applications No. A/NE-FTA/85 and 164 are in close vicinity of the Site (**Plan A-2a**);
- (d) the Site is vacant and the proposed development would bring new house and landscaping features that would improve visual and environmental qualities of the area; and
- (e) the Site comprises only one NTEH and would not be directly connected to the local track. The proposed development would not have significant traffic impact.

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 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

The Site is not the subject of any previous application.

6. Similar Applications

- 6.1 There are 26 similar applications involving 20 sites for Small House development within /partly within the "AGR" zone in the vicinity of the Site in Fu Tei Au and Sha Ling area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Among these similar cases, 20 applications were approved with conditions by the Committee between July 2008 and September 2014 (i.e. before a more cautious approach is adopted by the Board) (**Plan A-1**). These applications were approved by the Committee mainly on the considerations that the 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 of the same village

in meeting the Small House demand; the proposed Small House developments were not incompatible with the surrounding rural and village environment; the proposed developments were not expected to have significant adverse impacts on the surrounding area. The remaining six applications No. A/NE-FTA/161, 164, 169, 170, 171 and 172 (**Plan A-1**) were also approved by the Committee between September 2016 and June 2017 (i.e. after a more cautious approach is adopted by the Board) mainly for the reason of being the subject of previously approved applications (No. A/NE-FTA/105, 90, 119, 120, 121 and 122 respectively).

6.3 Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently vacant and overgrown with grass (**Plan A-4**);
- (b) located to the northwest of village cluster of Wa Shan Village and falls entirely within the 'VE' of the same village; and
- (c) only accessible by a mud track (**Plan A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north within "AGR" zone is a warehouse and to the further north are sites of open storage, vacant land and warehouses which fall within an area zoned "Other Specified Uses(Port Back-Up Uses)" on the OZP (**Plan A-2a**);
- (b) to the east are some temporary domestic structure and active/fallow agricultural land;
- (c) to the immediate south are open storage and active agriculture land and to the further south across the nullah is the village cluster of Wa Shan Village within the "V" zone (**Plan A-2b**); and
- (d) to the west are some village houses built under approved Applications No. A/NE-FTA/85 and 89 for Small House development (**Plan A-2a**).

8. **Planning Intention**

The planning intention of the "AGR" zone in the Fu Tei Au and Sha Ling area 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.

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 the footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	- DLO/N, LandsD advises that the footprint of the proposed Small House falls within the ‘VE’ of Wa Shan Village.
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 Wa Shan Village: about 8.93 ha (equivalent to 357 Small House sites). The outstanding Small House applications for Wa Shan Village are 62 ² while the 10-year Small House demand forecast for the same village is 295.
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		- Land available to meet the Small House demand within the “V” zone of Wa Shan Village: about 4.09 ha (equivalent to 163 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) advises that the agricultural activities in the vicinity are active. Agricultural infrastructures such as road access and water supply are available. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view.
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is not entirely incompatible with the surrounding rural setting and environment dominated by fallow/active agricultural land, tree groups, vacant/unused land and village houses (Plan A-2a).

² Among the 62 outstanding Small House applications, 31 of them fall within the “V” zone and 31 straddle or outside the “V” zone. For those 31 applications straddling or being outside the “V” zone, 10 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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)?		✓	- 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.
9.	Traffic impact?	✓		- The 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 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?	✓		- The 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.
11.	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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping impact?		✓	<p>The 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.</p> <ul style="list-style-type: none"> - According to the aerial photo of 2017, the Site is located in the rural landscape character comprising of temporary structures, village houses, vegetated area and clustered tree groups. Similar uses/developments with approved planning permissions are found in close proximity of the Site within the same “AGR” zone. The proposed development is considered not entirely incompatible with the surrounding environment. - The site is connected to the nearest public road to the north by a mud track that runs into the Site. Other than the mud track, the Site is mainly covered by wild grass. No tree or other significant vegetation is found within the site. Significant adverse landscape impact arising from the proposed development is not anticipated. - Landscape condition is considered not necessary to impose a landscape condition in view of the limited space within the Site for meaningful landscaping. The applicant is advised to maintain all landscape plantings within the Site at all times during planning approval.
13.	Local objections conveyed by DO?		✓	<ul style="list-style-type: none"> - District Officer (North) (DO(N)) advises that he has consulted the locals. The Chairman of Sheung Shui District Rural Committee, the incumbent North District Council member of N15 Constituency cum Indigenous Inhabitant Representative (IIR) of Sheung Shui Heung, the remaining two IIRs and the Resident Representative (RR) of Sheung Shui Heung, and the IIR and RR of Wa San Tsuen have no comment on the application.

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 IV**.

- (a) District Lands Officer/North, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (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 the application:

- (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 30.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received (**Appendix V**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application and the incumbent North District council member supports the application as it can provide convenience to the villagers. The Hong Kong Bird Watching Society and an 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; approval of the application would set an undesirable precedent to the future similar applications within the “AGR” zone; land is still available within the “V” zone for Small House development; and there is high potential for agricultural rehabilitation at the Site.

11. Planning Considerations and Assessments

11.1 The Site falls entirely within an area zoned “AGR” on the OZP. The proposed Small House development is not in line with the planning intention of the “AGR” zone which is intended 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 Wa Shan Village is 62 while the 10-year Small House demand forecast for the same village is 295. According to the latest estimate by PlanD, about 4.09 ha (equivalent to 163 Small House sites) of land are available in the “V” zone of Wa Shan Village for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Wa Shan Village.

- 11.3 The Site is situated in an area of rural landscape character dominated by fallow/active agricultural land, tree groups, vacant/unused land, village houses and some open storage and warehouse uses. The proposed Small House is considered not entirely incompatible with the surrounding environment (**Plans A-2b and A-3**). Significant adverse landscape impact arising from the proposed developments is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective. C for T has reservation on the application and considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development only involves one Small House, the subject application could be tolerated. Other relevant Government departments, including DEP, CE/MN of DSD and D of FS, have no adverse comment or no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Wa Shan 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 4.09 ha or equivalent to 163 Small House sites) is still available within the “V” zone and capable to meet the outstanding 62 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. Given the Site is not the subject of any previous approved applications, the circumstances applicable to the six approved applications are different from the current application.
- 11.5 There are 26 similar applications for Small House development within/partly within the “AGR” zone in the vicinity of the Site in the Fu Tei Au and Sha Ling area (**Plan A-1**). Among these applications, 20 applications were approved by the Committee between April 2008 and September 2014 (i.e. before a more cautious approach is adopted by the Board). After the adoption of a more cautious approach by the Board, six applications (No. A/NE-FTA/161, 164, 169, 170, 171 and 172) were approved by the Committee between September 2016 and June 2017 mainly for the reason of being the subject of previously approved applications (No. A/NE-FTA/105, 90, 119, 120, 121 and 122 respectively).
- 11.6 Regarding the adverse public comments objecting to the application mainly on the grounds that the application is not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent to the future similar applications within the “AGR” zone; land is still available within the “V” zone; and there is high potential for agricultural rehabilitation at the Site, 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 the Fu Tei Au and Sha Ling 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 Wa Shan 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 18.1.2023, 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**.

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 23.11.2018

Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar s.16 Applications for Proposed House (New Territories Exempted House (NTEH) - Small House) within/partly within the “AGR” Zone in the vicinity of the Site in the Fu Tei Au and Sha Ling area
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	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 Wa Shan Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2019**