

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

**APPLICATION NO. A/NE-FTA/191**

- Applicant** : 廖錦海先生, 廖智傑先生, 廖智康先生, 廖傳恩先生 and 廖哲希先生 represented by 林志權先生
- Site** : Lots 208 S.A to 208 S.E & 208 RP in D.D. 52, Sheung Shui Wa Shan, Sheung Shui, New Territories
- Site Area** : 659 m<sup>2</sup> (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 5 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)

**1. The Proposal**

- 1.1 The applicants, who claimed to be indigenous villagers of Sheung Shui Village<sup>1</sup>, seek planning permission to build five NTEHs (Small Houses) 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 application (**Plan A-2a**) are as follows:

<b>Applicants</b>	<b>Lot No.</b>	<b>House No.</b>
廖智傑	Lot 208 S.A	No. 1
廖錦海	Lot 208 S.B	No. 2
廖智康	Lot 208 S.C	No. 3
廖傳恩	Lot 208 S.D	No. 4
廖哲希	Lot 208 S.E	No. 5

<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claimed themselves to be indigenous villagers of Sheung Shui Village. However, their eligibility for Small House grant cannot be ascertained since no Small House applications on the Site have been received.

The development parameters of each of the proposed NTEHs (Small Houses) are as follows:

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

1.3 The applicants indicate that the uncovered areas of the Site (including Lot 208 RP) would be used as passageway between the proposed Small Houses. Layout of the proposed Small Houses (including septic tanks) is shown on **Drawing A-1**.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with attachments received on 29.4.2019 (**Appendix I**)
- (b) Further Information received on 10.6.2019 (**Appendix Ia**)
- (c) Further Information received on 13.6.2019 (**Appendix Ib**)

## **2. Justifications from the Applicant**

The justifications put forth by the applicants in support of the application are detailed in Part 9 of the Application Form in **Appendix I**. They can be summarised as follows:

- (a) one of the applicants, 廖錦海先生, returns to Hong Kong after retirement; and
- (b) the applicants claimed themselves to be family members and indigenous villagers of Sheung Shui Village, and are eligible for the Small House grant applications.

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

One of the applicants, 廖錦海先生, is the sole “current land owner” of the 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**

The Site is not the subject of any previous application.

## **6. Similar Applications**

6.1 There are 27 similar applications involving 21 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 approved 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 One similar application to the west of the Site **(Plan A-1)** (No. A/NE-FTA/188) was rejected by the Committee in January 2019 mainly on the considerations that the proposed development was not in line with the planning intention of "AGR" zone and there was no strong planning justification in the submission for a departure from the planning intention; and land was still available within the "V" of Wah Shan Village for Small House development. It was 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.
- 6.4 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 weeds **(Plans A-3 and 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 footpath **(Plans A-2a and A-3)**.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the immediate north within "AGR" zone are some active/fallow agricultural land, vacant land and a village house and to the further north are site of open storage and vacant land which fall within an area zoned "Other Specified Uses (Port Back-Up Uses)" on the OZP **(Plan A-2a)**;
  - (b) to the east are a toilet and a footpath leading to the village cluster of Wah Shan Village within the "V" zone **(Plan A-2b)**;

- (c) to the immediate south are some active agricultural land and to the further south across the nullah is the village cluster of Wa Shan Village; and
- (d) to the west are some village houses and active/fallow agricultural land.

## 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  - Footprints of the proposed Small Houses	-  -	100%  100%	- The Site and the footprints of the proposed Small Houses fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site  - Footprints of the proposed Small Houses	100%  100%	-  -	- DLO/N, LandsD advises that the footprints of the proposed Small Houses fall 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 <sup>2</sup> 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 4.05 ha (equivalent to 162 Small House sites) ( <b>Plan A-2b</b> ).

<sup>2</sup> 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>
4.	Compatible with the planning intention of “AGR” zone?		✓	<p>- The Director of Agriculture, Fisheries and Conservation (DAFC) advises that the Site is currently a fallow land overgrown with weeds. Agricultural activities are active in the vicinity, and agricultural infrastructures such as footpath and water supply are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view.</p> <p>- From nature conservation point of view, the Site has some fruit trees and is overgrown with common weeds. A mature <i>Cinnamomum camphora</i> (樟樹) was found outside the northeastern boundary of Lot 208 S.D. While he has no strong view on the application from nature conservation point of view, should the application be approved, the applicant should be reminded to avoid disturbing the mature <i>Cinnamomum camphora</i> nearby.</p>
5.	Compatible with surrounding area/ development?	✓		<p>- 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 (<b>Plan A-2a</b>).</p>
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 developments 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 five Small Houses. 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 in-principle 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 developments, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?		✓	- 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.  - According to the aerial photo of 2017, the Site is situated in an area of rural landscape character surrounded by

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>village houses, open storage sites and clustered tree groups. According to her recent site visit, the Site is mostly covered by vegetation and some existing trees of common species, i.e. fruit trees such as <i>Dimocarpus longan</i> (龍眼), <i>Mangifera indica</i> (杧果) etc., are observed within the site along the southern boundary.</p> <ul style="list-style-type: none"> <li>- According to the layout plan for the proposed developments, despite some existing fruit trees will be affected, no landscape resource of high sensitivity i.e. rare/protected species, Old and Valuable Tree (OVT) etc. is found within the site. Hence, significant adverse impact on sensitive landscape resources arising from this application is not anticipated. Moreover, existing village houses and some permitted small house developments are found in close proximity to the application site. The proposed developments under this application are considered not entirely incompatible with the surrounding environment.</li> <li>- Since there is no major public frontage along the site boundary, should the TPB approve this application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.</li> <li>- The applicant is advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO for approval.</li> </ul>
13.	Local objections conveyed by DO?		✓	<ul style="list-style-type: none"> <li>- District Officer (North) (DO(N)) advises that he has consulted the locals. The Indigenous Inhabitant Representative (IIR) of Wa Sha Tsuen supports the application. The Chairman of Sheung Shui District Rural Committee, the incumbent North District Council</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				member of N15 Constituency cum IIR of Sheung Shui Heung, the remaining two IIRs and the Resident Representative (RR) of Sheung Shui Heung, and the 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 7.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, five public comments were received (**Appendix V**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual object to the application mainly on the grounds that the proposed developments are not in line with the planning intention of the “AGR” zone; potential adverse sewerage impact to the nearby nullah; there is high potential for agricultural rehabilitation at the Site; land is still available within the “V” zone for Small House development; and approval of the application would set an undesirable precedent to the future similar applications within the “AGR” zone.

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

11.1 The Site falls entirely within an area zoned “AGR” on the OZP. The proposed Small House developments are 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. Agricultural activities are active in the vicinity, and



agricultural infrastructures such as footpath and water supply are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.

- 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 4.05 ha (equivalent to 162 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 surrounded by village houses, active/ fallow agricultural land, open storage sites and clustered tree groups. Existing village houses and some permitted small house developments are found in close proximity to the Site. The proposed Small Houses are 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 developments only involves five Small Houses, 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**), the footprints of the proposed Small Houses fall entirely 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 4.05 ha or equivalent to 162 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.
- 11.5 There are 27 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 July 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). One similar application to the west of the Site (**Plan A-1**) (No. A/NE-FTA/188) was rejected by the Committee in January 2019 mainly on the considerations that the proposed development was not in line with the planning intention of "AGR" zone and there was no strong planning justification in the submission for a departure from the planning intention; and land was still available within the "V" of

Wah Shan Village for Small House development. The planning circumstances of the current application are similar to that rejected application.

11.6 Regarding the adverse public comments as detailed in paragraph 10, the relevant Government departments' 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 does not support the application for the following reasons:

- (a) the proposed developments are 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 21.6.2023, 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

**14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 29.4.2019
<b>Appendix Ia</b>	Further Information received on 10.6.2019
<b>Appendix Ib</b>	Further Information received on 13.6.2019
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	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
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available within the “V” zone of Wa Shan Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2019**