

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

**APPLICATION NO. A/NE-FTA/204**

- Applicant** : Mr. LIU Wan-da represented by Hang Tau Golden Dragon Engineering Limited
- Site** : Lots 217 RP and 219 in D.D. 52, Sheung Shui Wa Shan, Sheung Shui, New Territories
- Site Area** : 162.8 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Fu Tei Au and 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 claims himself an indigenous villager of Sheung Shui Heung<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Sheung Shui Wa Shan, Fu Tei Au (**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)’ 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 <sup>2</sup> |
| Number of Storeys | : 3                     |
| Building Height   | : 8.23 m                |
| Roofed Over Area  | : 65.03 m <sup>2</sup>  |
- 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 proposed Small House is for garden purpose.
- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) received on 1.6.2021.

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Sheung Shui 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 8 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) the applicant is an indigenous villager and entitled to a Small House grant in accordance with the Small House Policy. A Small House application at the Site was submitted to Lands Department (LandsD) in April 2015; and
- (b) according to his site inspection, the proposed Small House would have no adverse environmental, traffic, landscape, water supply and drainage impacts to the surrounding areas. The applicant also proposes to use the uncovered area as a garden for enhancing the landscape within the Site.

## **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 28 similar applications involving 22 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 2008 and 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 there was a general shortage of land within the “V” zone of the same village in meeting the Small House demand at the time of consideration. After the adoption of a more cautious approach, six applications No. A/NE-FTA/161, 164, 169, 170, 171 and 172 (**Plan A-1**) were approved mainly for the reason of being the subject of previously approved applications.
- 6.3 The remaining two similar applications to the west and south of the Site (**Plan A-1**) (No. A/NE-FTA/188 and 191) were rejected by the Committee/ the Board on review in 2019 on the considerations that the proposed development was not in line with the planning intention of “AGR” zone; and land was still available within the “V” of Wah Shan Village for Small House development.

6.4 Details of the similar applications are summarised 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, unmanned aerial vehicle photo on Plan A-3 and site photos on Plan A-4)**

7.1 The Site is:

- (a) vacant and covered with grass;
- (b) located to the northwest of village cluster of Wa Shan Village and falls entirely within the 'VE' of the same village; and
- (c) accessible by a track leading to Man Kam To Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the west and south are some vacant, active/fallow agricultural land and scattered domestic structures;
- (b) to the east in area zoned "Agriculture" and to north across the track in area zoned "Other Specified Uses (Port Back-Up Uses)" on the OZP are sites of open storage, parking of vehicles, logistic centre and fallow agricultural land; and
- (c) to the southeast across the nullah is the village cluster of Wa Shan Village within the "V" zone.

**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:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
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.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
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)?  Sufficient land in “V” zone to meet outstanding Small House application?	  ✓	✓   	<u>Land Required</u> - Land required to meet the Small House demand in Wa Shan Village: about 12.25 ha (equivalent to 490 Small House sites). The outstanding Small House applications for Wa Shan Village are 60 <sup>2</sup> while the 10-year Small House demand forecast for the same village is 430.  <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of the village cluster: about 2.55 ha (equivalent to 102 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) advises that the Site is currently abandoned. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural 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 village houses, temporary structures and clustered tree groups ( <b>Plan A-2a</b> ).
6.	Within Water Gathering Grounds (WGGs)?		✓	

<sup>2</sup> Among the 60 outstanding Small House applications, 31 of them fall within the “V” zone and 29 straddle or outside the “V” zone. For those 29 applications straddling or being outside the “V” zone, 10 of them have obtained valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
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.
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 involves construction of one Small House. He 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- In view that there is no major public frontage surrounding the Site and there is limited available space for landscaping within the Site, should the application be approved, it is considered not necessary to impose a landscape condition as the effect of landscaping in enhancing the quality of public realm is not apparent.
13.	Local objection conveyed by DO?	✓		- District Officer (North) (DO(N)) advises that one out of three Indigenous Inhabitant Representatives (IIRs) of Sheung Shui Heung objects to the application. The Chairman of Sheung Shui District Rural Committee, the incumbent North District Council member of the subject constituency, the Chairman of Fung Shui Area Committee, the remaining two IIRs and Resident Representative (RR) of Sheung Shui Heung and the IIR and RR of Wa Shan Tsuen have 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) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L, PlanD;
- (e) CE/MN, DSD;
- (f) DAFC;
- (g) D of FS; and
- (h) DO(N), HAD.

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

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

## **10. Public Comments Received During Statutory Publication Period (Appendix V)**

On 8.6.2021, the application was published for public inspection. During the statutory public inspection period, three public comments were received. A North District Council (NDC) member indicates no comment on the application. Kadoorie Farm and Botanic Garden Corporation and one individual object to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; land is available within the “V” zone to meet

the outstanding Small House applications; and Small House developments should be concentrated within “V” zone.

## **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 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 agricultural point of view as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Sheung Shui Wa Shan is 60 while the 10-year Small House demand forecast for the same village cluster is 430. According to the latest estimate by PlanD, about 2.55 ha (equivalent to 102 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 footprint of the proposed Small House falls entirely within the ‘VE’ of Wa Shan Village.
- 11.3 The Site is situated in an area of rural landscape character dominated by village houses, temporary structures and clustered tree groups. 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 development is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective. 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/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**), while land available within the “V” zone is insufficient to fully meet the future Small House demand of 490 Small Houses, such available land (about 2.55 ha or equivalent to 102 Small House sites) is still available within the “V” zone to meet the 60 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.5 There are 28 similar applications in the vicinity of the Site. Among these applications, 20 applications were approved by the Committee between 2008 and 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 2016 and 2017 mainly for the reason of being the subject of previously approved applications. The remaining two applications to the west and south of the Site (No. A/NE-FTA/188 and 191) were rejected in 2019 mainly on the considerations that the proposed development was not in line with the planning intention of “AGR” zone; and land was still available within the “V” of Wa Shan Village for Small House development. The planning circumstances of the current application are similar to those rejected applications.

- 11.6 Regarding the local objections conveyed by DO(N) and the adverse public comments against the application mentioned in paragraphs 9 and 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 local objections conveyed by DO(N) and public comments mentioned in paragraphs 9 and 10 above, 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 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 within the “V” zone for more 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 23.7.2025, 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 a 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 1.6.2021
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
<b>Appendix III</b>	Similar s.16 Applications for Proposed 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 Sheung Shui Wa Shan for Small House Development
<b>Plan A-3</b>	Unmanned Aerial Vehicle Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2021**