

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/222

<u>Applicants</u>	:	Messrs. LIU Kam Hoi, LIU Derek Chi Keat and LIU Jeffrey Chi Honk represented by Mr. CHIN Poon On
<u>Site</u>	:	Lots 208 S.A, S.B and S.C in D.D. 52, Sheung Shui Wa Shan, Sheung Shui, New Territories
<u>Site Area</u>	:	About 410.9m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Fu Tei Au & Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed 3 Houses (New Territories Exempted Houses (NTEHs) – Small Houses)

1. The Proposal

- 1.1 The applicants, who claim to be indigenous villagers of Sheung Shui Wai Loi Village¹, seek planning permission to build 3 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 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). The Site is currently vacant.

- 1.2 Details of the application (**Plan A-2a**) are as follows:

Applicant	Lot No.	House No.
LIU Derek Chi Keat	Lot 208 S.A	H1
LIU Kam Hoi	Lot 208 S.B	H2
LIU Jeffrey Chi Honk	Lot 208 S.C	H3

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claim themselves to be indigenous villagers of Sheung Shui Wai Loi Village. Their eligibilities for Small House grant are yet to be ascertained.

Details of each of the proposed NTEHs (Small Houses) are as follows:

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

- 1.3 A layout of the proposed Small Houses (including septic tanks) is shown in **Drawing A-1**. The applicants indicate that the uncovered area of the Site has no particular use and would be used as an open area.
- 1.4 The Site forms part of the subject of a previous application (No. A/NE-FTA/191) for 5 NTEHs which was rejected by the Board on review on 25.10.2019. Details are in paragraph 5.1.
- 1.5 In support of the application, the applicants have submitted the Application Form with attachments (**Appendix I**) and Further Information (FI) (**Appendix Ia**) on 31.1.2023 and 20.3.2023 respectively.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Application Form at **Appendix I**, and summarized as follows:

- the applicants claim that their family with a size of thirteen members would move back to Hong Kong from Canada and there are insufficient spaces to accommodate the family members.

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

One of the applicants, Mr. LIU Kam Hoi, 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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Application

- 5.1 The Site forms part of the subject of a previous application (No. A/NE-FTA/191) submitted by the same applicants and two others for 5 NTEHs, which was rejected by the Board on review on 25.10.2019 after the formal adoption of a more cautious approach by the Board since August 2015² mainly on the grounds that the application did not comply with the

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications provided by LandsD

Interim Criteria in that land was still available within the “V” zone for Small House development; and the proposed developments were not in line with the planning intention of the “AGR” zone.

- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plan A-2a**.

6. Similar Applications

- 6.1 There are 7 similar applications for Small House development within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Three applications (No. A/NE-FTA/90, 95 and 132) were approved by the Rural and New Town Planning Committee (the Committee) between January 2009 and February 2014 (i.e. before the formal adoption of a more cautious approach since August 2015), mainly on the grounds that the application generally complied with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the village environs (‘VE’); there were a general shortage of land to meet the Small House demand in the “V” zone of the concerned villages at the time of consideration; and the proposed Small Houses would unlikely generate significant adverse impacts on the surrounding area.
- 6.3 Two applications (No. A/NE-FTA/164 and 219) were approved by the Committee in November 2016 and July 2022 respectively (i.e. after the formal adoption of a more cautious approach since August 2015) mainly on sympathetic consideration that the applications sites were the subject of previous approvals.
- 6.4 The remaining two applications (No. A/NE-FTA/188 and 204) were rejected by the Committee in January 2019 and July 2021 respectively mainly on the grounds that the applications were not line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Wa Shan Village for Small House Development.
- 6.5 Details of the similar applications are summarized at **Appendix IV** and **Plan 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 photo on Plans A-4a and A-4b)

- 7.1 The Site is:
- (a) currently vacant and overgrown with weeds;
 - (b) located to the west of the village cluster of Wa Shan Village and falls entirely within the ‘VE’ of the same village; and
 - (c) only accessible via a footpath.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the immediate north within the same “AGR” zone are active/fallow agricultural land, vacant land and open storages uses;

- (b) to the east are vacant land, a toilet and a footpath leading to the village cluster of Wa Shan Village within the “V” zone;
- (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 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 at **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 Houses fall entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	– –	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Site and footprint of the proposed Small Houses fall entirely 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)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Wa Shan Village: about 12.15 ha (equivalent to 486 Small House sites). The outstanding Small House applications for Wa Shan Village are 56 ³ while the 10-year Small House demand forecast for the same village is 430.
	Sufficient land in “V” zone to meet	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Wa Shan

³ Among the 56 outstanding Small House applications, 30 of them fall within the “V” zone and 26 straddle or outside the “V” zone. For those 26 applications straddling or outside the “V” zone, 4 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	outstanding Small House application?			Village: about 2.53 ha (equivalent to about 101 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 sources are available. The Site can be used for agricultural activities such as open-field cultivation greenhouses and plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		- The proposed developments are not incompatible with the surrounding areas predominated by fallow/active agricultural land, tree groups and village houses.
6.	Within Water Gathering Grounds?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	
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 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 three Small Houses. She considers that the application could be tolerated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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. Significant adverse landscape impact arising from the developments are not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of Sheung Shui District Rural Committee, the Indigenous Inhabitant Representative and the Resident Representative of Wa Shan Village 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 V**.

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CE/C, WSD;
- (e) CTP/UD&L, PlanD;
- (f) CE/MN, DSD;
- (g) D of FS;
- (h) DAFC; and
- (i) DO(N), HAD.

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 10.2.2023, 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. Kadoorie Farm and Botanic Garden 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; there is potential for agricultural rehabilitation at the Site; adverse impacts on natural environment, infrastructure capacities and landscape character; land is still available within “V” zone to meet the future Small House

demand; approval of the application would set an undesirable precedent to similar application within the “AGR” zone; and the Site is the subject of a previously rejected application.

11. Planning Considerations and Assessments

- 11.1 The application is for 3 proposed Small Houses at the Site zoned “AGR” on the OZP. The proposed developments are 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. Active agricultural activities are found 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 open-field cultivation, greenhouses, plant nurseries, etc.
- 11.2 The Site is situated in an area of rural landscape character predominated by village houses, active/ fallow agricultural land and open storage uses. The proposed developments are not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application as significant adverse impact on the existing landscape resources arising from the proposed developments 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 developments only involve construction of three Small Houses, 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.
- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House for Wa Shan Village is 56 while the 10-year Small House demand forecast is 430. Based on PlanD’s latest estimate, about 2.53 ha (equivalent to about 101 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zones of Wa Shan Village is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications (**Plan A-2b**). It should be noted that the Board has formally adopted a more cautious approach in approving applications for Small House development since August 2015. 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.
- 11.4 The Site forms part of the subject of a previous application (No. A/NE-FTA/191) for 5 Small Houses submitted by the same applicants as the current application and two others. The application was rejected in 2019 after the Board’s formal adoption of a more cautious approach mainly on the grounds that the proposed developments were not in line with the planning intention of the “AGR” zone and land was still available within the “V” zone of the Wa Shan Village for Small House development. There has been no major change in planning circumstances of the area since the rejection of the previous application.
- 11.5 There are seven similar applications for Small House development within the “AGR” zone in the vicinity of the Site. Among them, 3 applications were approved before the Board’s formal adoption of a more cautious approach in mainly on the grounds that the applications generally complied with the Interim Criteria that the footprint of the proposed Small

Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone at the time of consideration. After the adoption of a more cautious approach by the Board, two applications were approved by the Committee in November 2016 and July 2022 mainly on the grounds that the Sites were the subject of previously approved applications. As the Site forms part of the subject of a previously rejected application (No. A/NE-FTA/191), the planning circumstances of the current application are different from the approved similar applications.

- 11.6 Regarding the public comments objecting to the application as detailed 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, 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 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 which 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 31.3.2027, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

- 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 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 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

Appendix I	Application Form with attachments received on 31.1.2023
Appendix Ia	FI received on 20.3.2023
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar Applications
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 Wa Shan Village for Small House Development
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**