

RNTPC Paper No. A/NE-FTA/228 to 230
For Consideration by the
Rural and New Town Planning
Committee on 8.9.2023

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

APPLICATIONS NO. A/NE-FTA/228 to 230

- Applicants** : Mr LIU Cheung Chun (Application No. A/NE-FTA/228)
Mr LIU Luk Cheung (Application No. A/NE-FTA/229)
Mr LIU Yee Cheong (Application No. A/NE-FTA/230)
all with Mr LIU Man Ho as the Power of Attorney and represented by Euro Asia
Construction Engineering Limited
- Sites** : Lot 259 S.C RP (Application No. A/NE- FTA/228)
Lot 259 S.D RP (Application No. A/NE- FTA/229)
Lot 259 S.F RP (Application No. A/NE- FTA/230)
all in D.D. 52, Sheung Shui Wa Shan, New Territories
- Site Areas** : About 170m² (Application No. A/NE- FTA/228)
About 144m² (Application No. A/NE- FTA/229)
About 191m² (Application No. A/NE- FTA/230)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/17
- Zonings** : “Agriculture” (“AGR”) and “Village Type Development” (“V”)
“AGR” (about 77.5%); and (Application No. A/NE-FTA/228)
“V” (about 22.5%)
“AGR” (about 82.9%); and (Application No. A/NE-FTA/229)
“V” (about 17.1%)
“AGR” (about 66.1%); and (Application No. A/NE-FTA/230)
“V” (about 33.9%)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House) on
each of the application sites

1. The Proposals

1.1 The applicants, who claim themselves to be indigenous villagers of Sheung Shui Wa Shan¹, seek planning permissions to build an NTEH (Small House) on each of the application sites (the Sites) (**Plan A-1**). The Sites fall largely within an area zoned “AGR” with the remaining portions falling within “V” zone on the OZP. According to the Notes of the OZP, while House (NTEH only) is always permitted in the “V” zone, such use in the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the three 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 Layouts of the proposed Small Houses are shown in **Drawings A-1 to A-3**.

1.4 Each of the Sites is the subject of a previous application (No. A/NE-FTA/147, 137 and 138) submitted by the same applicants for the same use (**Plans A-1 and A-2a**), which were approved by the Rural and New Town Planning Committee (the Committee) in 2014.

<u>Current Application</u>	<u>Previous Application</u>	<u>Date of Approval</u>
No. A/NE-FTA/228	A/NE-FTA/147	26.9.2014
No. A/NE-FTA/229	A/NE-FTA/137	4.4.2014
No. A/NE-FTA/230	A/NE-FTA/138	4.4.2014

Compared with the previously approved applications, the major development parameters of the proposed Small Houses are generally the same as the current ones. Details of previous applications are set out in paragraph 5.1 below.

1.5 In support of the applications, the applicants have submitted the following documents:

- (a) Application Forms with attachments received on **(Appendices Ia, Ib and Ic)**
20.7.2023 (applications No. A/NE-FTA/228 to 230)
- (b) Further Information (FI) received on 31.8.2023* **(Appendix Id)**
(application No. A/NE-FTA/228)

(accepted and exempted from the publication and recounting requirements)*

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications detailed at **Appendices Ia to Ic**, are summarized as follows:

¹ District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the applicants' eligibilities for Small House grants are yet to be ascertained.

- (a) the Sites are the subject of previously approved planning applications for the same use;
- (b) relevant planning permissions lapsed in 2022. Small House applications are still under processing by Lands Department, and hence fresh applications are required;
- (c) the proposed Small Houses fall within the village ‘environs’ (‘VE’) of Sheung Shui Wa Shan;
- (d) the applicants have no alternative site for the proposed Small House developments; and
- (e) the proposed Small House developments are compatible with the surrounding environment which are surrounded by existing village settlements.

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

The applicants are the sole “current land owner” of their respective 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 NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. **Previous Applications**

- 5.1 The Sites are the subject of three previous applications (No. A/NE-FTA/147, 137 and 138) submitted by the same applicants for the same use which were approved by the Committee in 2014 mainly on considerations that the applications were in line with the Interim Criteria in that the footprints of Small Houses fell entirely within the ‘VE’ of Sheung Shui Wa Shan and there was insufficient land within the same “V” zone to meet the Small House demand at the time of consideration.
- 5.2 Details of the above previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. **Similar Applications**

- 6.1 There are 12 similar applications for Small House development in the close vicinity of the Sites straddling over the same “AGR” and “V” zones since the first promulgation of the Interim Criteria.
- 6.2 Among them, six applications (No. A/NE-FTA/127 to 132) were approved by the Committee in 2014 before the formal adoption of a more cautious approach² by the Board since August 2015 mainly on considerations that the applications generally complied with the Interim Criteria in that the footprints of the Small Houses fell entirely within the ‘VE’ of Sheung Shui Wa Shan and there was insufficient land within the same “V” zone

² Amongst 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.

to meet the Small House demand at the time of consideration. The remaining six applications (No. A/NE-FTA/214 to 219) were approved by the Committee in 2022 after the formal adoption of the more cautious approach by the Board mainly on sympathetic considerations that the developments were the subject of previously approved applications submitted by the same applicants.

- 6.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

7. The Sites and their Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Sites are:

- (a) currently vacant (for application No. A/NE-FTA/229 only) and occupied by vegetated area and trees (for applications No. A/NE-FTA/228 and 230 only);
- (b) situated to the southwest of village proper of Sheung Shui Wa Shan and to the immediate south of existing village houses;
- (c) accessible by a local track.

- 7.2 The surrounding areas are predominantly rural in character comprising village houses, vegetated areas and tree groups. Ng Tung River is situated to the further south of the Sites.

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 applications have been assessed against the assessment criteria in **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 Sites			- The Sites fall mostly within the “AGR” zone with the remaining portions falling within the “V” zone.
	(Application No. A/NE-FTA/228)	22.5%	77.5%	
	(Application No. A/NE-FTA/229)	17.1%	82.9%	
	(Application No. A/NE-FTA/230)	33.9%	66.1%	

³ Among the 42 outstanding Small House applications, 18 of them fall within the “V” zone and 24 straddle or outside the “V” zone. For those 24 applications straddling or being outside the “V” zone, 7 of them have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries.
5.	Compatible with surrounding area/development?	✓		The surrounding areas are predominantly rural in character comprising village houses, vegetated areas and tree groups (Plan A-3).
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)?		✓	Director of Fire Services (D of FS) has no in-principle objection to the applications.
9.	Traffic impact?	✓		Commissioner for Transport (C for T) has reservation on the applications and considers that Small House developments 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 developments 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 applications only involving development of three Small Houses could be tolerated on traffic grounds.
10.	Drainage impact?		✓	Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications and advises that an approval condition on the submission and implementation of a 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 applications alone are unlikely to cause major pollution.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping impact?		✓	Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from landscape planning perspective as significant adverse impact on the landscape character and the existing landscape resources arising from the proposed Small Houses are not anticipated.
13.	Local objections conveyed by DO?		✓	

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other details comments are at **Appendix V**.

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

9.3 The following government departments have no objection to/no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N)/NDO, CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) District Officer (North), Home Affairs Department (DO(N), HAD).

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

On 28.7.2023, the applications were published for public inspection. During the statutory public inspection period, each application received one comment from the Chairman of Sheung Shui District Rural Committee who indicates no comment on the applications.

11. Planning Considerations and Assessments

- 11.1 The applications are for a proposed Small House development at each of the Sites largely zoned “AGR” with the remaining portions falling within “V” zone 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 also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural point of view as there are active agricultural activities in

the vicinity; agricultural infrastructure such as road and water source is available; and the Sites possess potential for agricultural rehabilitation.

- 11.2 The Sites are situated to the southwest of villager proper of Sheung Shui Wa Shan and to the immediate south of the existing village houses. The proposed developments are not in compatible with the surrounding areas which are predominantly rural in character with a mix of village houses, vegetated areas and tree groups (**Plans A-2a and A-3**). CTP/UD&L, PlanD has no objection to the applications from landscape planning perspective as significant adverse impact on the existing landscape resources within the Sites and the landscape character arising from the proposed Small Houses are not anticipated. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that the applications each involving one Small House only, the applications could be tolerated. Other relevant government departments consulted, including DEP, CE/MN of DSD, and D of FS, etc., have no objection to or no comment on the applications.
- 11.3 Regarding the Interim Criteria, DLO/N, LandsD advises that the number of outstanding Small House applications for Sheung Shui Wa Shan is 42 while the 10-year forecast for the same village is 430. Based on PlanD’s latest estimate, about 2.47ha of land (equivalent to 98 Small House sites) is available within the “V” zone concerned. While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a cautious approach in approving applications for Small House development since August 2015. Among 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. 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. Nevertheless, the Sites are the subject of three previously approved applications submitted by the same applicants for the same use. Compared with the previous applications, the major development parameters of the proposed three Small Houses are generally the same. Moreover, DLO/N of LandsD advises that the Small House grant applications are under processing and yet to be approved. In this regard, sympathetic consideration may be given to the applications.
- 11.4 There are a total of 12 similar applications in the close vicinity of the Sites straddling over the same “AGR” and “V” zones approved by the Committee between 2014 and 2022. Of them, six applications (No. A/NE-FTA/214 to 219) were approved by the Committee after the formal adoption of a more cautious approach mainly on sympathetic consideration as set out in paragraph 6.2 above. The planning circumstances of the current applications are similar to these approved applications.
- 11.5 There is no objecting comment received on the applications.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment as detailed in paragraphs 10, the Planning Department has no objection to the applications.

- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 8.9.2027, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- 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 VII**.

- 12.3 Alternatively, should the Committee decide to reject the applications, 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 Sheung Shui Wa Shan which 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 applications and decide whether to grant or refuse to grant the permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix Ia	Application Forms with attachments received on 20.7.2023 (application No. A/NE-FTA/228)
Appendix Ib	Application Forms with attachments received on 20.7.2023 (application No. A/NE-FTA/229)
Appendix Ic	Application Forms with attachments received on 20.7.2023 (application No. A/NE-FTA/230)

Appendix Id	FI received on 31.8.2023 (application No. A/NE-FTA/228)
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Applications
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 (application No. A/NE-FTA/228)
Drawing A-2	Layout Plan (application No. A/NE-FTA/229)
Drawing A-3	Layout Plan (application No. A/NE-FTA/230)
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” zone
Plan A-3	Aerial Photo
Plans A-4a and 4-b	Site Photos

PLANNING DEPARTMENT
SEPTEMBER 2023