

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LT/706 to 712

<u>Applicants</u>	Mr. CHUNG Kwok Ki Mr. KOO Wai Kit Mr. KOO Wai Ho Mr. KO Fong Wah Mr. CHEUNG Tsz Shan, George Mr. KOO Yuk Ki Mr. KOO Heung Wah all represented by Vision Planning Consultants Limited	(Application No. A/NE-LT/706) (Application No. A/NE-LT/707) (Application No. A/NE-LT/708) (Application No. A/NE-LT/709) (Application No. A/NE-LT/710) (Application No. A/NE-LT/711) (Application No. A/NE-LT/712)
<u>Sites</u>	Lots 567 S.C and 573 S.F Lots 573 S.A and 574 S.B Lots 573 S.B and 574 S.C Lots 573 S.D and 574 S.G Lots 573 S.E and 574 S.H Lots 574 S.A Lots 574 S.F all in D.D. 8, Sha Pa Village, Lam Tsuen, Tai Po	(Application No. A/NE-LT/706) (Application No. A/NE-LT/707) (Application No. A/NE-LT/708) (Application No. A/NE-LT/709) (Application No. A/NE-LT/710) (Application No. A/NE-LT/711) (Application No. A/NE-LT/712)
<u>Site Areas</u>	About 101.73m ² About 109.13m ² About 116.86m ² About 96.76m ² About 103.84m ² About 120.8m ² About 113.94m ²	(Application No. A/NE-LT/706) (Application No. A/NE-LT/707) (Application No. A/NE-LT/708) (Application No. A/NE-LT/709) (Application No. A/NE-LT/710) (Application No. A/NE-LT/711) (Application No. A/NE-LT/712)
<u>Lease</u>	Block Government Lease (demised for agricultural use)	
<u>Plan</u>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11	
<u>Zoning</u>	“Agriculture” (“AGR”)	
<u>Applications</u>	Proposed House (New Territories Exempted House (NTEH) – Small House) at each of the application sites	

1. **The Proposal**

1.1 The applicants, indigenous villagers of three recognized villages¹ as confirmed by their respective Indigenous Inhabitant Representatives (IIRs)², seek planning permission to build an NTEH (Small House) at each of the application sites (the Sites) (**Plan A-1**). 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 the "AGR" zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of each of the proposed Small House developments are as follows:

Total floor area	:	195.09m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

1.3 Layout of the proposed Small Houses and the proposed sewerage connection are shown on **Drawings A-1 to A-14**.

1.4 The Sites are part of the subject of two previous applications (No. A/NE-LT/240 and 439) for Small House developments, which were approved by the Rural and New Town Planning Committee (the Committee) in 2000 and 2012 respectively. The details of previous applications are set out in paragraph 5 below. Compared with the last approved application (No. A/NE-LT/439), the footprint and the development parameters of the proposed Small Houses are generally the same as the current ones. Besides, the proposed Small Houses will be connected to the public sewer under the current applications (**Drawings A-1, 3, 5, 7, 9, 11 and 13**), instead of the communal septic tanks, as proposed under Application No. A/NE-LT/439.

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

- (a) application forms with attachments received on 5.1.2022 (**Appendices Ia to Ig**)
- (b) further information (FI) received on 18.2.2022 (**Appendices Ih to In**) providing responses to departmental comments (*accepted and exempted from publication and recounting requirements*)

¹ The three indigenous villages are Ng Tung Chai, Wong Yue Tan and Tai Om Shan.

² District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicants are eligible for Small House grants.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications as stated in Part 8 of the application forms and FIs at **Appendices Ia to In** are summarized as follows:

- (a) the current applications are part of the subject of two previously approved applications (No. A/NE-LT/240 and 439), which have lapsed as the applicants forgot to apply for extension of time for commencement of the approved Small Houses. The applicants were required to obtain planning approvals before LandsD would continue process their Small House grant applications. The current proposals are same as the previously approved applications; and
- (b) the proposed Small Houses comply with the “Interim Criteria for Consideration of Application for NTEH/Small House in New Territories” (the Interim Criteria):
 - (i) the Sites fall within the village ‘environs’ (‘VE’) of Sha Pa Village;
 - (ii) the Sites are currently fallow agricultural land. The proposed Small Houses are compatible with the surrounding environment with some approved Small Houses in the vicinity;
 - (iii) there will be no adverse impact to the water gathering grounds (WGG) as the proposed Small Houses will be connected to the existing public sewerage system, and consents from all the affected lot owners have been obtained;
 - (iv) the applicants will rely on public transport services (i.e. bus and mini-bus) available via Lam Kam Road which are within 3 minutes’ walking distance. No parking space will be provided within the Sites but there are parking spaces available in the vicinity. Hence, there will be no adverse traffic impact; and
 - (v) the overall impact arising from the proposed Small Houses on traffic, environmental, landscape, drainage and sewerage aspects would be minimal.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The Interim Criteria was first promulgated on 24.11.2000. On 23.8.2002, criterion (i) which requires that the application site, if located within WGG, should be able to be connected to the existing or planned sewerage system in the area was incorporated.

The latest set of Interim Criteria with criterion (i) remains unchanged since its promulgation on 7.9.2007 (**Appendix II**).

5. Previous Applications

- 5.1 The Sites are part of the subject of two previously approved applications (No. A/NE-LT/240 and 439) submitted by the same applicants for Small House development (**Plans A-2a** and **A-2b**), but the planning permissions have lapsed.
- 5.2 Application No. A/NE-LT/240 for the development of seven Small Houses was approved with conditions by the Committee on 22.12.2000 before the promulgation of the revised Interim Criteria on 23.8.2002 which required Small Houses locating within WGG be connected to public sewerage system. The application was approved mainly on the grounds that the proposed Small Houses were generally compatible with the surrounding rural and village environment and they met the then Interim Criteria in that the site fell entirely within the tentative 'VE' of Sha Pa Village and there was a shortage of land within "V" zone of the concerned villages to meet the Small House demand at the time of consideration.
- 5.3 Application No. A/NE-LT/439 for the development of 20 Small Houses with an emergency vehicular access (EVA) was approved by the Committee on 6.7.2012 mainly on the grounds of complying with the Interim Criteria in that the site fell entirely within the 'VE' of Sha Pa Village; there was a general shortage of land within the "V" zone of the concerned villages in meeting the Small House demand at the time of consideration; and the proposed Small Houses would be able to be connected to the planned public sewerage system in the area. Compared with these two applications (No. A/NE-LT/240 and 439), major development parameters and the Small House footprints of the seven houses are generally the same.
- 5.4 Details of the above previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1, A-2a** and **A-2b**.

6. Similar Applications

- 6.1 There are three similar applications for Small House development in the vicinity of the Sites within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-2a**).
- 6.2 All the three applications (No. A/NE-LT/461, 462 and 463) were rejected by the Committee on 1.3.2013 mainly for the reasons of being not in line with the planning intention of the "AGR" zone; and not in compliance with the Interim Criteria in that the applicants failed to demonstrate that the proposed development would not cause adverse impact on the water quality in the area.
- 6.3 Details of the above 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, A-2a and photos on Plans A-3 and A-4)

7.1 The Sites are:

- (a) partly occupied by active agriculture land (Applications No. A/NE-LT/706, 709 and 712) whereas some fruit trees and saplings are observed within and along the site boundaries (Applications No. A/NE-LT/706 to 712). A small temporary structure is also found within the site of Application No. A/NE-LT/707;
- (b) the Sites are not accessible by vehicles. They are accessible from Lam Kam Road (about 160m away) via a footbridge across Lam Tsuen River to the southeast of the Sites; and
- (c) mostly within the Sha Pa Site of Archaeological Interest.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with village houses, farmland and tree clusters;
- (b) to the north of the Sites are woodlands and to the northeast of the Sites is the village proper of Sha Pa; and
- (c) Lam Tsuen River is to the south of the Sites. Across the river to the southwest is the village proper of Ma Po Mei.

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?			
	- Footprint of the seven Small Houses	-	100%	- The Sites and the proposed Small House footprints fall entirely within the “AGR” zone.
	- Application sites	-	100%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> - Footprint of the seven Small Houses - Application sites 	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> - The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the applications as the proposed seven Small Houses fall within the tentative 'VE' boundary (Plan A-1) of Sha Pa Village, which was incorporated into the list of recognized villages for the purpose of Small House grant in 1996.
3.	<p>Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p> <p>Sufficient land in "V" zone to meet outstanding Small House applications?</p>	<p></p> <p>✓</p>	<p>✓</p> <p></p>	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in Shui Wo (including Sha Pa)³: about 5.48 ha (equivalent to 219 Small House sites). The outstanding Small House applications are 29⁴ while the 10-year Small House demand forecast for the same villages is 190. <p><u>Land Available</u></p> <ul style="list-style-type: none"> - Land available to meet Small House demand within the "V" zones of the villages concerned: about 0.96ha (equivalent to 37 Small House sites) (Plan A-2b).
4.	<p>Compatible with the planning intention of "AGR" zone?</p>		✓	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural development point of view as the Sites possess potential for agricultural rehabilitation.
5.	<p>Compatible with surrounding area/development?</p>	✓		<ul style="list-style-type: none"> - The surrounding areas are predominantly rural in character comprising of village houses, farmland and tree clusters.

³ According to DLO/TP, LandsD, there is no IIR for Sha Pa Village and the IIR of Shui Wo Village also handles the village matters (i.e. including the provision of outstanding and 10-year Small House figures) of Sha Pa.

⁴ Among the 29 outstanding Small House applications, 13 of them fall within the "V" zones of Sha Pa and Shui Wo and 16 straddle or outside the "V" zones. For those 16 applications straddling or outside the "V" zones, none of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within WGG?	✓		<ul style="list-style-type: none"> - The Director of Environmental Protection (DEP) has no objection to the applications provided that the applicants will provide adequate sewer connection for disposal of sewage from the Small Houses to the existing public sewer at their own costs and reserve adequate land for the sewer connection work. - The Chief Engineer / Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications as the Small Houses are proposed to be connected to the existing public sewerage system.
7.	Sewerage Impact?	✓		
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and EVA?		✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no in-principle objection to the applications.
10.	Traffic impact?	✓		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has general reservation on the applications but considers the applications only involving development of seven Small Houses can be tolerated on traffic grounds.
11.	Drainage impact?	✓		<ul style="list-style-type: none"> - The Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint. - Approval condition on the submission and implementation

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				of drainage proposal for the Sites is required.
12.	Landscape impact?		✓	- The 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 resources arising from the proposed developments is not anticipated.
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

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

- (a) DLO/TP, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L, PlanD;
- (e) CE/MN, DSD;
- (f) CE/C, WSD;
- (g) DAFC;
- (h) D of FS; and
- (i) Executive Secretary of Antiquities and Monuments Office, Development Bureau.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) District Officer (Tai Po), Home Affairs Department.

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

The applications were published for public inspection. During the statutory public inspection period, two public comments were received from individuals raising objection to all the seven applications mainly on the following grounds:

- (a) the proposed developments are not in line with the planning intention of “AGR” zone;
- (b) the proposed developments are too crowded with each other, and will cause traffic congestion problems and adverse impacts on environment, fire hazard, security, ecology and quality of life; and
- (c) it is suspected that the proposed developments are villa type development and not intended to provide genuine housing for indigenous villagers.

11. Planning Considerations and Assessments

- 11.1 The applications are for a proposed Small House development at each of the Sites zoned “AGR” on the OZP. The planning intention of the “AGR” zone 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 applications from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as road access and water source is available; and the Sites possess potential for agricultural rehabilitation.
- 11.2 The Sites are located entirely within the tentative ‘VE’ boundary of Sha Pa Village. The sites of Applications No. A/NE-LT/706, 709 and 712 are occupied by active agriculture land whereas some fruit trees and saplings are observed within and along the site boundaries of A/NE-LT/706 to 712. The proposed developments are not incompatible with the surrounding area which is predominantly rural in character occupied by village houses, farmland and tree clusters (**Plans A-2a, A-3 and A-4**). CTP/UD&L of PlanD has no objection to the applications from the landscape planning perspective as significant adverse impact on the landscape resources arising from the proposed developments is not anticipated.
- 11.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/TP of LandsD, the number of outstanding Small House for Shui Wo (including Sha Pa) is 29 while the 10-year Small House demand forecast is 190. Based on PlanD’s latest estimate, about 0.96ha of land (equivalent to 37 Small House sites) is available within the “V” zones concerned. While the amount of land available within the “V” zones (**Plan A-2b**) are 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 adopted a more cautious approach in considering applications for Small House development since August 2015. Amongst others, in assessing whether there is a general shortage of land in meeting Small House demand, the Board has put more weighting on the number of outstanding Small House applications as 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 part of the subject of previous applications (No. A/NE-LT/240 and 439) for Small House development

submitted by the same applicants, which were approved in 2000 and 2012 respectively. Compared with these two previously approved applications (No. A/NE-LT/240 and 439), the footprints and development parameters of the proposed seven Small Houses are generally the same. Moreover, as advised by DLO/TP of LandsD, the Small House grant applications submitted by the applicants are under processing. Hence, sympathetic consideration could be given to the current applications.

- 11.4 The Sites fall within the upper indirect WGG and the applicants have proposed to connect the proposed Small Houses to the existing public sewerage system at Sha Pa Village, which is located near the Sites (**Plan A-2a**). CE/MN of DSD has no in-principle objection to the applications on condition that the applicants should submit and implement drainage proposal for the Sites. Other relevant government departments including DEP, CE/C of WSD, C for T, CHE/NTE of HyD and D of FS have no objection to or adverse comment on the applications.
- 11.5 As shown on **Plan A-2a**, there are three similar applications (No. A/NE-LT/461, 462 and 463) in close proximity to the Site which were rejected in 2013 mainly for the reasons of being not in compliance with the Interim Criteria in that the applicants failed to demonstrate that the proposed development would not cause adverse impact on the water quality in the area. The planning circumstances of the current applications are different from these similar applications.
- 11.6 Regarding the public comments objecting to the applications on the grounds as detailed in paragraph 10, government departments' comments and the planning assessments above are relevant. Regarding the public comment claiming that the proposed developments are villa type development not intended to provide genuine housing for indigenous villagers, DLO/TP of LandsD advises that Sha Pa Village is one of the recognized villages in Tai Po Heung and the respective applicants are indigenous villagers of the same "Heung". Under the Small House Policy, applications for Small House grants on private land within the same "Heung" will be considered. LandsD would investigate and follow up if suspected selling of Small House right is involved.

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 has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 4.3.2026, 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

- (a) 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 Member's reference:

- (a) the proposed development is not in line with the planning intention of the "Agriculture" ("AGR") zone which 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. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the "Village Type Development" ("V") zones of Shui Wo and Sha Pa which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zones 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 permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition and advisory clauses, 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

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| Appendix Ia | Application form and attachment received on 5.1.2022
(Application No. A/NE-LT/706) |
| Appendix Ib | Application form and attachment received on 5.1.2022
(Application No. A/NE-LT/707) |

Appendix Ic	Application form and attachment received on 5.1.2022 (Application No. A/NE-LT/708)
Appendix Id	Application form and attachment received on 5.1.2022 (Application No. A/NE-LT/709)
Appendix Ie	Application form and attachment received on 5.1.2022 (Application No. A/NE-LT/710)
Appendix If	Application form and attachment received on 5.1.2022 (Application No. A/NE-LT/711)
Appendix Ig	Application form and attachment received on 5.1.2022 (Application No. A/NE-LT/712)
Appendix Ih	FI received on 18.2.2022 (Application No. A/NE-LT/706)
Appendix Ii	FI received on 18.2.2022 (Application No. A/NE-LT/707)
Appendix Ij	FI received on 18.2.2022 (Application No. A/NE-LT/708)
Appendix Ik	FI received on 18.2.2022 (Application No. A/NE-LT/709)
Appendix Il	FI received on 18.2.2022 (Application No. A/NE-LT/710)
Appendix Im	FI received on 18.2.2022 (Application No. A/NE-LT/711)
Appendix In	FI received on 18.2.2022 (Application No. A/NE-LT/712)
Appendix II	Relevant revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
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
Drawings A-1 to 14	Location plans and sewerage connection plans submitted by the applicants
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within “V” zones
Plan A-3	Aerial photo
Plan A-4	Site photo

PLANNING DEPARTMENT
MARCH 2022