

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LT/740 to 745

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| <u>Applicants</u> | Mr. SHUM Che Wing Danny Mr. MA Wah Leung Mr. LI Chit Hang Mr. LEE Chi Wai Mr. WONG Yat Ming Mr. SHUM Koon Shing all represented by Vision Planning Consultants Limited | (Application No. A/NE-LT/740) (Application No. A/NE-LT/741) (Application No. A/NE-LT/742) (Application No. A/NE-LT/743) (Application No. A/NE-LT/744) (Application No. A/NE-LT/745) |
| <u>Sites</u> | Lots 573 S.H and 574 S.K Lot 573 S.J Lot 573 S.L Lot 573 S.M Lot 574 S.J Lots 574 S.L ss.1 and 574 S.L RP all in D.D. 8, Sha Pa Village, Lam Tsuen, Tai Po | (Application No. A/NE-LT/740) (Application No. A/NE-LT/741) (Application No. A/NE-LT/742) (Application No. A/NE-LT/743) (Application No. A/NE-LT/744) (Application No. A/NE-LT/745) |
| <u>Site Areas</u> | About 99m ² About 111.66m ² About 130.5m ² About 107.3m ² About 110.11m ² About 161.91m ² | (Application No. A/NE-LT/740) (Application No. A/NE-LT/741) (Application No. A/NE-LT/742) (Application No. A/NE-LT/743) (Application No. A/NE-LT/744) (Application No. A/NE-LT/745) |
| <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) on each of the application sites | |

1. The Proposal

- 1.1 The applicants, indigenous villagers of four recognized villages¹ as confirmed by their respective Indigenous Inhabitant Representatives (IIRs)², seek

¹ The four villages include Shui Wo, Sheung Wun Yiu, Tai Kau and Kam Chuk Pai Tsuen.

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

planning permission to build an NTEH (Small House) on 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 in **Drawings A-1 to A-12**.

1.4 The Sites are part of the subject of two previous applications for Small House developments, which were approved by the Rural and New Town Planning Committee (the Committee) in 2002 and 2012 respectively. 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.

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

- (a) Application Forms with attachments received (**Appendices Ia to If**) on 6.10.2022
- (b) Further Information (FI) received on (**Appendices Ig to Il**) 31.10.2022
- (c) FI received on 9.11.2022 (**Appendices Im to Ir**)

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 Ir** are summarized as follows:

- (a) the current applications are part of the subject of two previously approved applications (No. A/NE-LT/263 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 approval before LandsD would continue process their Small House grant applications. The current proposals are the 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 on 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 a 3 minutes’ walking distance. No parking space will be provided within the Sites but there are parking areas available in the vicinity of the Sites if required. 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. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Applications

- 5.1 The Sites are part of the subject of two previously approved applications (No. A/NE-LT/263 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/263 for the development of seven Small Houses was approved with conditions by the Committee on 15.3.2002 before the promulgation of the revised Interim Criteria on 23.8.2002 which required Small Houses locating within the WGG be connected to public sewerage system. It was approved mainly on consideration of being in line with the Interim Criteria in that more than 50% of the Small House footprint fell within

the 'VE' and there was a general shortage of land to meet the demand of Small House development in the concerned "Village Type Development" ("V") zone 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/263 and 439), major development parameters and the Small House footprints of the six 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 and A-2a**.

6. Similar Applications

- 6.1 There are 20 similar applications for Small House development in the vicinity of the Sites within the same "AGR" zone, of which 19 of them were submitted after the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-2a**).
- 6.2 Two applications (No. A/NE-LT/240 and 249) were approved with conditions by the Committee in 2000 and 2001, mainly on consideration of being in line with the Interim Criteria in that more than 50% of the Small House footprint fell within the 'VE' and there was a general shortage of land to meet the demand for Small House development in the concerned "V" zone at that time of consideration. For the 14 applications No. A/NE-LT/706-712 and 718-724, they were approved mainly on sympathetic consideration that the sites are part of the subject of previous applications (No. A/NE-LT/226, 240, 249 and 439) for Small House development submitted by the same applicants, which were approved between 2000 and 2012.
- 6.3 Three applications (No. A/NE-LT/461, 462 and 463) were rejected by the Committee in 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.
- 6.4 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 to A-4)

- 7.1 The Sites are:
- (a) vacant and covered with self-seeded vegetation;

- (b) the Sites are not accessible by vehicles. They are accessible from Lam Kam Road via a footbridge across Lam Tsuen River to the southeast of the Sites; and
- (c) 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, farmlands and tree clusters;
- (b) to the north 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 six Small Houses - Application sites | - - | 100% 100% | - The Sites and the proposed Small House footprints fall entirely within the “AGR” zone. |
| 2. | Within ‘VE’? - Footprint of the six Small Houses - Application sites | 100% 100% | - - | - The Sites and the footprints of the proposed six Small Houses fall within the tentative ‘VE’ boundary (Plan A-2a) of Sha Pa Village, which was incorporated into the list of recognized villages for the purpose of Small House grant in 1996. |

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|----|--|------------|-----------|---|
| 3. | Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)? | | ✓ | <u>Land Required</u> - Land required to meet Small House demand in Shui Wo (including Sha Pa) ³ : about 5.73 ha (equivalent to 229 Small House sites). The outstanding Small House applications are 39 ⁴ while the 10-year Small House demand forecast for the same villages is 190. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 0.94 ha (equivalent to 36 Small House sites) (Plan A-2b). |
| | Sufficient land in “V” zone to meet outstanding Small House applications? | | ✓ | |
| 4. | Compatible with the planning intention of “AGR” zone? | | ✓ | - The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural point of view as the Sites possess potential for agricultural rehabilitation. |
| 5. | Compatible with surrounding area/ development? | ✓ | | - The surrounding areas are predominantly rural in character comprising village houses, farmlands and tree clusters. |
| 6. | Within Water Gathering Ground (WGG)? | ✓ | | - 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 |
| 7. | Sewerage Impact | ✓ | | |

³ “Shui Wo (including Sha Pa)” is considered as one of the recognized villages in the Tai Po District under the “List of Recognized Villages under the New Territories Small House Policy” by LandsD. Outstanding Small House applications and 10-year Small House demand of Sha Pa Village and Shui Wo Village are therefore considered together.

⁴ Among the 39 outstanding Small House applications, 13 of them fall within the “V” zones of Sha Pa and Shui Wo and 26 straddle or outside the “V” zones. For those 26 applications straddling or outside the “V” zone, 13 of them have obtained valid planning approval from the Board.

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|-----|---|------------|-----------|---|
| | | | | <p>land for the sewer connection work.</p> <p>- 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.</p> |
| 8. | Encroachment onto planned road networks and public works boundaries? | | ✓ | |
| 9. | Need for provision of fire services installations and emergency vehicular access (EVA)? | | ✓ | <p>- The Director of Fire Services (D of FS) has no in-principle objection to the applications, provided that the proposed Small Houses would not encroach on any existing or planned EVA.</p> |
| 10. | Traffic impact? | ✓ | | <p>- The Commissioner for Transport (C for T) considers that such type of Small House development should be confined within the “V” zone as far as possible.</p> <p>- Notwithstanding the above, it is considered that the applications can be tolerated on traffic grounds.</p> |
| 11. | Drainage impact? | ✓ | | <p>- The Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint.</p> <p>- Approval condition on the submission and implementation of drainage proposal for the Sites is required.</p> |

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|-----|----------------------------------|-------------------|------------------|---|
| 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 Small Houses 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 individuals objected to all applications mainly on the following grounds:

- (a) the proposed developments are overcrowded, which will cause traffic congestion problems and adverse impacts on environment, fire hazard, security, ecology and quality of life; and

- (b) it is suspected that the proposed development is a villa-type development.

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 and are vacant and covered by self-seeded vegetation. The proposed developments are not incompatible with the surrounding areas which are predominantly rural in character occupied by village houses, farmlands and tree clusters. 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, according to DLO/TP of LandsD, the number of outstanding Small House for Shui Wo (including Sha Pa) is 39 while the 10-year Small House demand forecast is 190. Based on PlanD’s latest estimate, about 0.94ha of land (equivalent to 36 Small House sites) is available within the “V” zones concerned. The amount of land available within the “V” zones (**Plan A-2b**) are insufficient to fully meet the future Small House demand and the outstanding Small House applications. As such, the applications are considered generally in compliance with the Interim Criteria. Besides, the Sites are part of the subject of previous applications (No. A/NE-LT/263 and 439) for Small House development submitted by the same applicants, which were approved by the Committee in 2002 and 2012 respectively. Compared with the latest previously approved application (No. A/NE-LT/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. DEP and CE/C of WSD have no objection on the applications. 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, C for T, CHE/NTE of HyD and D of FS have no objection to or adverse comment on the applications.

- 11.5 There are 20 similar applications in close proximity to the Sites. Three applications (No. A/NE-LT/461, 462 and 463) were rejected by the Committee in 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. The planning circumstances of the current applications are different from these three 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, 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 25.11.2026, 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 conditions 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 reason for rejection is 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.

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 conditions 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 6.10.2022 (Application No. A/NE-LT/740) |
| Appendix Ib | Application form and attachment received on 6.10.2022 (Application No. A/NE-LT/741) |
| Appendix Ic | Application form and attachment received on 6.10.2022 (Application No. A/NE-LT/742) |
| Appendix Id | Application form and attachment received on 6.10.2022 (Application No. A/NE-LT/743) |
| Appendix Ie | Application form and attachment received on 6.10.2022 (Application No. A/NE-LT/744) |
| Appendix If | Application form and attachment received on 6.10.2022 (Application No. A/NE-LT/745) |
| Appendix Ig | FI received on 31.10.2022 (Application No. A/NE-LT/740) |
| Appendix Ih | FI received on 31.10.2022 (Application No. A/NE-LT/741) |
| Appendix Ii | FI received on 31.10.2022 (Application No. A/NE-LT/742) |
| Appendix Ij | FI received on 31.10.2022 (Application No. A/NE-LT/743) |
| Appendix Ik | FI received on 31.10.2022 (Application No. A/NE-LT/744) |
| Appendix Il | FI received on 31.10.2022 (Application No. A/NE-LT/745) |
| Appendix Im | FI received on 9.11.2022 (Application No. A/NE-LT/740) |
| Appendix In | FI received on 9.11.2022 (Application No. A/NE-LT/741) |
| Appendix Io | FI received on 9.11.2022 (Application No. A/NE-LT/742) |
| Appendix Ip | FI received on 9.11.2022 (Application No. A/NE-LT/743) |
| Appendix Iq | FI received on 9.11.2022 (Application No. A/NE-LT/744) |
| Appendix Ir | FI received on 9.11.2022 (Application No. A/NE-LT/745) |
| 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 |

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| Appendix VI | Public comments |
| Appendix VII | Recommended advisory clauses |
| Drawings A-1 to 12 | 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” zone |
| Plan A-3 | Aerial photo |
| Plan A-4 | Site photos |

**PLANNING DEPARTMENT
NOVEMBER 2022**