

**Relevant Revised Interim Criteria for Assessing Planning Applications for  
NTEH/Small House Development in the New Territories  
( Revised on 7.9.2007 )**

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;

- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
  - (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
  - (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development<sup>^</sup>);
  - (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
  - (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.
- <sup>^</sup>i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Similar Applications for New Territories Exempted House (NTEH)/Small House  
Straddling Over the Same “V” Zone and “AGR” Zone (after the first promulgation of  
the Interim Criteria in 2000)**

**Approved Application**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)/Development(s)</u></b>	<b><u>Date of Consideration By RNTPC/TPB</u></b>	<b><u>Approval Conditions</u></b>
1.	A/YL-KTN/380	Proposed House (New Territories Exempted House - Small House)	18.5.2012	1, 2

**Approval Conditions**

1. The permission shall cease to have effect on a specific time unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.
2. The design and provision of water supplies for fire-fighting and fire service installations.

**Rejected Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use(s)/Development(s)</u></b>	<b><u>Date of Consideration By RNTPC/TPB</u></b>	<b><u>Rejection Reasons</u></b>
1.	A/YL-KTN/153	Proposed New Territories Exempted House (NTEH) (Small House)	14.2.2003	1, 2, 3, 6
2.	A/YL-KTN/177	Proposed New Territories Exempted House (NTEH) (Small House)	15.8.2003	1, 2, 3, 6
3.	A/YL-KTN/265	New Territories Exempted Houses (NTEH) (Small Houses)	23.3.2007	1, 2, 4, 9
4.	A/YL-KTN/284	Proposed House (New Territories Exempted House - Small House)	1.2.2008	1, 2, 4, 5
5.	A/YL-KTN/285	Proposed House (New Territories Exempted House - Small House)	1.2.2008	1, 2, 4, 5
6.	A/YL-KTN/286	Proposed House (New Territories Exempted House - Small House)	1.2.2008	1, 2, 4, 5
7.	A/YL-KTN/469	Proposed House (New Territories Exempted House - Small House)	7.8.2015	1, 8

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Rejection Reasons</u>
8.	A/YL-KTN/470	Proposed House (New Territories Exempted House - Small House)	7.8.2015	1, 2, 8
9.	A/YL-KTN/472	Proposed House (New Territories Exempted House - Small House)	7.8.2015	1, 2, 8
10.	A/YL-KTN/545	Proposed Five Houses (New Territories Exempted House - Small House)	23.12.2016	1, 2, 10

#### Rejection Reasons

1. The proposed development was not in line with the planning intention of the "Agriculture" zone which was to retain and safeguard good agricultural land for agricultural purpose and to retain fallow arable land with good potential for rehabilitation. No strong justification had been given in the submission for a departure from such planning intention.
2. The proposed development did not comply with the "Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories".
3. There was no strong justification in the submission to demonstrate that land was not available within the "V" zone in the area for the proposed development
4. There was insufficient information in the submission to demonstrate why suitable sites within the areas zoned "V" could not be made available for the proposed development
5. The proposed development was incompatible with the surrounding rural area. There was insufficient information/technical assessment in the submission to demonstrate that the development would not generate adverse landscape and ecological impacts on the surroundings
6. The application site is located away from the village cluster of Sha Po Tsuen/Shui Tau Tsuen and falls outside the village environs of the village. Village house development should be sited on land zoned "Village Type Development" ("V") to ensure orderly development and provision of facilities
7. No similar applications have been approved in the immediate vicinity of the application site, the approval of the application would set an undesirable precedent for other similar applications within the "AGR" zone. The cumulative effect of approving such similar applications would have adverse impacts on the environment and infrastructure provision of the area
8. Land is still available within the "Village Type Development" zone of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai where land 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 infrastructure and services
9. The proposed development did not comply with the interim criteria for assessing planning applications for NTEH/Small Houses development in that it fell outside both the 'village environs' and "Village Type Development" ("V") zone

10. The proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no shortage of land in meeting the demand for Small House development in the "Village Type Development" zone in general, and there is no exceptional circumstances that merit approval of the application. Small Houses development should be more appropriate to concentrate close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services



**Detailed Comments from the Relevant Government Departments**

**Land Administration**

1. Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises New Grant agricultural lots.
- (b) The Site does not fall within any Village Environs Boundary (VEB) of recognized village.
- (c) According to his records, a Small House (SH) application on Lot Nos. 597A S.I and 597A S.V both in D.D. 109 was received by his office on 28.4.2014 from a person who had the same name as the applicant of the current s.16 application. In the SH application form, the said person claimed himself as an indigenous villager of Shui Tau Tsuen, Kam Tin. The indigenous villager's status and eligibility of the SH applicant have not yet been verified. When the SH application is due for processing, DLO/YL of LandsD will consider the application acting in the capacity as the landlord at its sole discretion in accordance with the New Territories SH Policy, including verification of the SH applicant's status. There is no guarantee that such application would be approved.
- (d) According to his records, the proposed SH site is not covered by any Modification of Tenancy/Building License.
- (e) The number of outstanding and approved SH applications of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai (as at September 2018) are tabulated as follows:

	No. of outstanding applications	No. of approved applications
Shui Tau Tsuen	18	28
Shui Mei Tsuen	76	82
Kam Hing Wai	21*	45

\*Including SH application within the Site.

- (f) The 10-year (2017-2026) forecasts of SH demand for Shui Mei Tsuen and Kam Hing Wai are 117 and 18 respectively (figure for Shui Tau Tsuen is unpredictable). The figures of the 10-year forecast are provided by the Indigenous Inhabitant Representatives of the said villages and DLO/YL is unable to verify such information.
- (g) Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai are pre-1898 recognized villages.

- (h) His office has no objection on the approval condition in respect of the provision of septic tank.
- (i) If a proposed SH site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned SH application will be rejected under the New Territories SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission. On the other hand, consideration will be given to application for proposed house site within or at least 50% of it is within a "V" zone which encircles a recognized village and is larger than 300 feet village environs.
- (j) Should planning approval be given to the planning application, the registered lot owner should inform DLO/YL of LandsD, and DLO/YL of LandsD will consider the SH application acting in the capacity as the landlord and there is no guarantee that such application would be approved. Any applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by the LandsD.

### **Traffic**

#### 2. Comments of the Commissioner for Transport (C for T) :

He has no comment on the application considering there is no parking provision and the induced traffic is minimal.

#### 3. Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) It is noted from the application that there is no run-in/out and direct vehicular access to the Site are proposed.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Agriculture**

#### 4. Comments of the Director of Agriculture, Fisheries, and Conservation (DAFC):

- (a) Agricultural activities in the vicinity are active. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) There is a retained abandoned meander 43CD/1 to the north of the Site. Should the application be approved, the applicant shall be advised to avoid disturbance and pollution to the abandoned meander.



## **Environment**

### 5. Comments of the Director of Environmental Protection (DEP):

In view of the small population and nature of the proposed development, septic tank and soakaway system is considered a suitable treatment system provided that its design and operation follows the requirements in EPD's Practice Note for Professional Person (ProPECC) PN 5/93 'Drainage Plans subject to Comment by the Environmental Protection Department', including percolation test and certification by Authorised Person.

## **Landscape**

### 6. Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) She has no objection to the application from landscape planning perspective.
- (b) The surrounding area is predominately in rural character with a river at north side of the site boundary, some village houses at the opposite side of the river, a large piece of agricultural land in the vicinity, some tree groups and a few temporary structures. The proposed use is considered not incompatible with the existing landscape context.
- (c) Based on the site inspection on 7.9.2018, there is no significant tree observed within the site boundary. Abandoned vegetation is found in the agriculture land. It is anticipated that no adverse landscape impact would be imposed by the proposed use. Moreover, about 71% of the site area falls within "V" zone on the OZP.
- (d) Given that no area is available for landscaping around the proposed Small House, should the application be approved by the Board, landscape condition for the application is not recommended.
- (e) There is no information on existing/proposed vehicular access for the Site to facilitate construction works. The applicant is reminded that all existing trees along the construction access should not be unnecessarily felled or pruned.

## **Drainage**

### 7. Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on submission and implementation of drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

**Fire Safety**

8. Comments of the Director of Fire Services (D of FS):
- (a) He has no specific comment on the application.
  - (b) The applicant is advised to observe “New Territories Exempted Houses – A Guide to Fire Safety Requirements” published by LandsD.

**Electricity**

9. Comments of the Director of Electrical and Mechanical Services (DEMS):
- (a) He has no particular comment on the application from electricity supply safety aspect.
  - (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

**Building Matters**

10. Comments of the Chief Building Surveyor/NTW, Buildings Department (CBS/NTW, BD):
- (a) Noting that the building to be erected on the Site will be NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121), DLO/YL should be in a better position to comment on the application.
  - (b) In case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP’s advice for details.

**District Officer’s Comments**

11. Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any locals' comment on the application and he has no particular comments on the application.

**Demand and Supply of Small House Sites**

12. According to the DLO/YL's records, the total of outstanding applications of Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai (as at September 2018) are 115, while the 10-year Small House demand forecast (2017-2026) for the same villages are 135. There is about 8.57 ha of land (i.e. equivalent to about 343 Small House sites) available within the "V" zone covering Shui Tau Tsuen, Shui Mei Tsuen and Kam Hing Wai to meet the Small Houses demand.



**Advisory clauses**

- (a) note DLO/YL, LandsD's comments if a proposed Small House (SH) site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned SH application will be rejected under the New Territories SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission. On the other hand, consideration will be given to application for proposed house site within or at least 50% of it is within a "V" zone which encircles a recognized village and is larger than 300 feet village environs. The registered lot owner should inform DLO/YL of LandsD, and DLO/YL of LandsD will consider the SH application acting in the capacity as the landlord and there is no guarantee that such application would be approved. Any applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by the LandsD;
- (b) note CHE/NTW, HyD's comments that it is noted from the application that no run-in/out and direct vehicular access to the Site are proposed. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (c) note D of FS's comments that the applicant should follow the "New Territories Exempted Houses – A Guide to Fire Safety Requirements" published by LandsD;
- (d) note DEP's comments that in view of the small population and nature of the proposed development, septic tank and soakaway system is considered a suitable treatment system provided that its design and operation follows the requirements in EPD's Practice Note for Professional Person (ProPECC) PN 5/93 'Drainage Plans subject to Comment by the Environmental Protection Department', including percolation test and certification by Authorised Person (AP);
- (e) note DAFC' comments that the applicant shall be advised to avoid disturbance and pollution to the abandoned meander to the north of the Site;
- (f) note CTP/UD&L of PlanD's comments that the applicant is reminded that all existing trees along the construction access should not be unnecessarily felled or pruned;
- (g) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the

Regulation when carrying out works in the vicinity of the electricity supply lines;

- (h) note CBS/NTW, BD's comments that in case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an AP should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP's advice for details; and
- (i) note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.