

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[^]);
 - (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.
- [^]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.

Previous s.16 Applications

Rejected Applications

Application No.	Proposed Developments	Date of Consideration	Approval Conditions
A/FSS/94	House (Small House)	07.11.1997	R1 – R3
A/FSS/155	New Territories Exempted House (NTEH) (Small House)	07.11.2003	R1, R3, R4
A/FSS/266	House (New Territories Exempted House - Small House)	4.5.2018	R1, R3, R5, R6
A/FSS/267	House (New Territories Exempted House - Small House)	4.5.2018	R1, R3, R5, R6

Rejection Reasons

- R1 The proposed development is not in line with the planning intention of the "Green Belt" ("GB") zone which is to protect areas from encroachment by urban development. The "GB" zone also serves as a buffer between Tsung Pak Long and Fanling Highway. There is a general presumption against development in the "GB" zone and there are no strong justifications in the submission for a departure from the planning intention

- R2 Sufficient land for Small House developments has been reserved within the "Village Type Development" ("V") zone of Tsung Pak Long. No information has been provided in the submission to demonstrate that land cannot be obtained for Small House developments within the "V" zone of Tsung Pak Long

- R3 The approval of the application would set an undesirable precedent for similar applications

- R4 The use under application did not comply with the interim criteria for assessing planning application for NTEH/Small House development as the land available within the "Village Type Development" zone of Tsung Pak Long could meet the future Small House demand

- R5 The proposed development is not in line with the Town Planning Board (TPB) Guidelines No. TPB PG-No.10 for 'Application for Development within "GB" Zone' in that there are no exceptional circumstances or strong planning grounds to justify the application

- R6 Land is still available within the "Village Type Development" zone of Tsung Pak Long 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 infrastructures and services

Appendix IV of RNTPC
Paper Nos. A/FSS/271 and 272

**Similar s.16 Applications Within or Partly Within the Same “Green Belt” Zone
on the Approved Fanling & Sheung Shui Outline Zoning Plan No. S/FSS/22**

Approved Applications

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/FSS/192	Proposed House (New Territories Exempted House - Small House)	28.05.2010	A1 – A3
A/FSS/207	Proposed House (New Territories Exempted House - Small House)	10.02.2012	A1 – A3
A/FSS/213	Proposed House (New Territories Exempted House - Small House)	23.11.2012	A1, A3
A/FSS/214	Proposed House (New Territories Exempted House - Small House)	23.11.2012	A1, A3
A/FSS/215	Proposed House (New Territories Exempted House - Small House)	23.11.2012	A1, A3
A/FSS/216	Proposed House (New Territories Exempted House - Small House)	25.01.2013	A1, A3
A/FSS/217	Proposed House (New Territories Exempted House - Small House)	25.01.2013	A1, A3
A/FSS/228	Proposed House (New Territories Exempted House - Small House)	13.03.2015	A1, A3
A/FSS/229	Proposed House (New Territories Exempted House - Small House)	13.03.2015	A1, A3
A/FSS/230	Proposed House (New Territories Exempted House - Small House)	27.03.2015	A1, A3, A4
A/FSS/231	Proposed House (New Territories Exempted House - Small House)	27.03.2015	A1, A3, A4
A/FSS/232	Proposed House (New Territories Exempted House - Small House)	27.03.2015	A1, A3, A4
A/FSS/243	Proposed House (New Territories Exempted House - Small House)	23.10.2015	A1, A4, A5
A/FSS/244	Proposed House (New Territories Exempted House - Small House)	23.10.2015	A1, A3 & A4

Approval Conditions

- A1 the submission and implementation of drainage proposals
- A2 the provision of fire fighting access, water supplies for fire fighting and fire service installations
- A3 the submission and implementation of landscape proposals

A4 the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the TPB

A5 the submission and implementation of landscape proposals and tree preservation proposals

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/FSS/193	House (New Territories Exempted House - Small House)	11.06.2010	R1, R2

Rejection Reasons

R1 The application did not comply with the Interim Criteria for assessing planning applications for New Territories Exempted House (NTEH)/Small House as the application site and footprint of the proposed Small House fell entirely outside the village environ of Tsung Pak Long Village

R2 Approval of the application which did not comply with the Interim Criteria for assessing NTEH/Small House might set an undesirable precedent for other similar applications in the "Green Belt" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area

Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/North, Lands Department (DLO/N, Lands D):

- (a) the Sites of application Nos. A/FSS/271 and 272 fall entirely within the 'VE' of Tsung Pak Long Village;
- (b) the applicants of application Nos. A/FSS/271 and 272 claimed themselves as indigenous villagers of Tsung Pak Long Village. Their eligibility for small house concessionary grant has yet to be ascertained;
- (c) the Sites are New Grant Lots and are not covered by any Modification of Tenancy / Building Licence;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand forecast for Tsung Pak Long Village are 56 and 560 respectively. The 10-year Small House demand forecast was provided by the relevant Indigenous Inhabitant Representative;
- (e) the Small House applications in respect of the Sites under the current applications were received by his office on 11.3.2013 and 19.3.2013 respectively; and
- (f) in order to cater for any possible physical site features / constraints, the final approved footprint / layout of the proposed small houses by his office may be subject to amendment / revision and his office would try to minimize the change and keep shifting as slightly as possible.

2. Traffic

Comments of the Commissioner for Transport (C for T):

- (a) he has reservation on the applications. Such type of developments 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 developments outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the applications only involve construction of two Small Houses. He considers that the applications can be tolerated unless they are rejected on other grounds.

3. **Building Matters**

Comment of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) noting that the building to be erected on the Sites will be New Territories Exempted Houses (NTEHs) under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121), DLO/N should be in a better position to comment on the captioned application; and
- (b) in case DLO/N 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 coordinator for the proposed works. The applicant may approach DLO/N or seek AP's advice for details.

4. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution; and
- (b) the applicants should also be reminded to observe relevant pollution control legislations such as Noise Control Ordinance, Air Pollution Control Ordinance, Water Pollution Control Ordinance, Waste Disposal Ordinance, etc. during construction and operation stages of the NTEHs.

5. **Landscape**

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

- (a) she has reservation on the applications from the landscape planning perspective;
- (b) based on the aerial photo of 2018, the Sites are located in an area of rural landscape character comprising of village clusters, scattered tree groups and farmlands. According to her site record dated 27.3.2018, the Sites are mainly covered by wild vegetation; some small trees and seedlings of common species are found within the Sites, which are in direct conflict with the proposed developments based on the proposed Small House plans provided by the applicants; hence, adverse impact on existing landscape resources within the Sites situated in "GB" zone arising from the proposed development is anticipated;
- (c) further to the above, according to the approved Fanling/Sheung Shui Outline Zoning Plan (OZP) No. S/FSS/22, the planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the subject "GB" zone. Hence, the

proposed developments are acting against the planning intention of the subject area; approval of the applications would encourage more similar proposed development to spread beyond the adjacent "V" zone into the "GB" zone. The cumulative effect of approving more of such applications will further degrade and cause irreversible adverse impact on the existing landscape character and landscape resources within the "GB" zone. In view of the above, she has some reservations on the applications from the landscape planning perspective; and

- (d) should the Town Planning Board approve the applications, she considers it not necessary to impose a landscape condition in view of the limited space within the Sites for additional landscaping, as its effect on enhancing the quality of public realm is not apparent.

6. Drainage

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

- (a) he has no in principle objection to the applications;
- (b) should the applications be approved, a condition should be included to request the applicants to submit and implement a drainage proposal for the Sites to ensure that they will not cause adverse drainage impact to the adjacent area;
- (c) the applications should be advised the following general requirement in the Drainage Submission:
 - (i) surface channel with grating covers should be provided along the site boundary;
 - (ii) the details (invert level, gradient, general sections etc.) of the proposed drain / surface channel and catch pit shall be provided;
 - (iii) the cover levels of proposed channel should be flush with the existing adjoining ground level;
 - (iv) the details of the catch pit shall be provided and cover shall be provided to the catch pit;
 - (v) catch pits with sand trap shall be provided at the outlets of the proposed drainage system. Details of the catch pit with sand trap should be provided;
 - (vi) the applicants should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the Sites. He should also ensure that the flow from the Sites will not overload the existing drainage systems;
 - (vii) where walls are erected or kerbs are laid along the boundary of the same, periphery channels should be provided on both sides of the walls or kerbs, and / or adequate openings should be provided at the walls / kerbs to allow existing overland flow passing through the Sites to be intercepted by the drainage system

of the Sites with details to be agreed by DSD;

- (viii) if the existing drainage facilities to which the applicants proposed to discharge the storm water from the Sites are not maintained by DSD, the applicants should identify the owners of the existing drainage facilities to which the proposed connections will be made and obtain consent from the owners prior to commencement of proposed works;
 - (ix) the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Sites should be intercepted and disposed of via proper discharge points. The applicants shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Sites any time during or after the works;
 - (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his / her own expenses;
 - (xi) for works to be undertaken outside the lot boundary, the applicants should obtain prior consent and agreement from DLO/N, LandsD and / or relevant private lot owners;
 - (xii) the applicants should make good all the adjacent affected areas upon the completion of the drainage works;
 - (xiii) the applicants should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and
 - (xiv) clear photos should be submitted showing the current conditions of the areas surrounding the Sites, the drainage around the Sites and the drainage routing from the discharge point(s) to the downstream watercourse.
- (d) the applicants shall connect their proposed sewerage system to DSD's network and furnish the Board/DSD with their connection proposal for agreement. After obtaining the Board/DSD's agreement, the applicants shall submit a duly completed Form HBP1 with a cross cheque covering the technical audit fee and a plan showing the details of the proposed drainage connection work to Mainland North Division of DSD for formal application for the required connection. Upon DSD's acceptance of the connection application, the applicant shall carry out the proposed connection works in accordance with DSD Standard Drawings at the resources of the applicants. The portion of the connection pipe located downstream of the terminal manhole outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD.

7. Fire Safety

Comments of the Director of Fire Services (D of FS):

- (a) he has no specific comment on the applications; and
- (b) the applicants are advised to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.

8. Water Supply

Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the applications; and
- (b) for provision of water supply to the developments, the applicants may need to extend the inside services to the nearest suitable government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards.

9. District Officer's Comments

Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals from 15.2.2019 to 1.3.2019. One of the three Indigenous Inhabitant Representatives (IIRs) and the Resident Representative (RR) of Tsung Pak Long supported the proposal. The North District Council member of the subject constituency, the Chairman of Sheung Shui District Rural Committee and one of the three IIRs of Tsung Pak Long had no comment on the proposal. The remaining one IIR of Tsung Pak Long did not reply to the consultation.

10. Demand and Supply of Small House Sites

According to DLO/N's records, the total number of outstanding Small House applications for Tsung Pak Long Village is 56 while the 10-year Small House demand forecast for the same village is 560. According to the latest estimate by PlanD, about 1.964 ha (equivalent to 78 Small House sites) of land are available within the "V" zone of Tsung Pak Long Village for Small House development.

Recommended Advisory Clauses

- (a) to note the comments of DEP that the applicants should be reminded to observe relevant pollution control legislations such as Noise Control Ordinance, Air Pollution Control Ordinance, Water Pollution Control Ordinance, Waste Disposal Ordinance, etc. during construction and operation stages of the NTEHs;
- (b) to note the comments of CE/C, WSD that for provision of water supply to the developments, the applicants may need to extend the inside services to the nearest suitable government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (c) to note the comments of CBS/NTW, BD that in case DLO/N 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 coordinator for the proposed works. The applicants may approach DLO/N or seek AP's advice for details;
- (d) to note the comments of CE/MN, DSD as follows:
 - (i) surface channel with grating covers should be provided along the site boundary;
 - (ii) the details (invert level, gradient, general sections etc.) of the proposed drain / surface channel and catch pit shall be provided;
 - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - (iv) the details of the catchpit shall be provided and cover shall be provided to the catchpit;
 - (v) catch pits with sand trap shall be provided at the outlets of the proposed drainage system. Details of the catch pit with sand trap should be provided;
 - (vi) the applicants should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the Sites. They should also ensure that the flow from the Sites will not overload the existing drainage systems;
 - (vii) where walls are erected or kerbs are laid along the boundary of the same, periphery channels should be provided on both sides of the walls or kerbs, and / or adequate openings should be provided at the walls / kerbs to allow existing overland flow passing through the Sites to be intercepted by the drainage system of the Sites with details to be agreed by DSD;

- (viii) if the existing drainage facilities to which the applicants proposed to discharge the storm water from the Sites is not maintained by DSD. The applicants should identify the owners of the existing drainage facilities to which the proposed connections will be made and obtain consent from the owners prior to commencement of proposed works;
 - (ix) the applicants are reminded that all existing flow paths as well as the run-off falling onto and passing through the Sites should be intercepted and disposed of via proper discharge points. The applicants shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Sites any time during or after the works;
 - (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicants at their own expenses;
 - (xi) for works to be undertaken outside the lot boundary, the applicants should obtain prior consent and agreement from DLO/N, LandsD and / or relevant private lot owners;
 - (xii) the applicants should make good all the adjacent affected areas upon the completion of the drainage works;
 - (xiii) the applicants should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation;
 - (xiv) clear photos should be submitted showing the current conditions of the areas surrounding the Sites, the drainage around the Sites and the drainage routing from the discharge point(s) to the downstream watercourse; and
 - (xv) the applicants shall connect their proposed sewerage system to DSD's network and furnish the Board/DSD with their connection proposal for agreement. After obtaining the Board/DSD's agreement, the applicants shall submit a duly completed Form HBP1 with a cross cheque covering the technical audit fee and a plan showing the details of the proposed drainage connection work to Mainland North Division of DSD for formal application for the required connection. Upon DSD's acceptance of the connection application, the applicant shall carry out the proposed connection works in accordance with DSD Standard Drawings at the resources of the applicants. The portion of the connection pipe located downstream of the terminal manhole outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD.
- (e) to note the comments of D of FS that the applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD; and
- (f) to 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 applicants 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.