

Appendix II of RNTPC

Paper No. A/FSS/277

**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 Application

Approved Application

Application No.	Proposed Developments	Date of Consideration	Approval Conditions
A/FSS/243	Proposed House (New Territories Exempted House - Small House)	23.10.2015	A1 – A3

Approval Conditions

- A1 the provision of septic tank
- A2 the submission and implementation of drainage proposal
- A3 the submission and implementation of landscape proposals and tree preservation proposals

**Similar s.16 Applications for Proposed House
 (New Territories Exempted House - Small House) within "GB" Zone on the
Approved Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/24**

Approved Applications

Application No.	Proposed Developments	Date of Consideration	Approval Conditions
A/FSS/192	Proposed House (New Territories Exempted House - Small House)	28.5.2010	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	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/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 proposal

A4 the provision of septic tank

Rejected Applications

Application No.	Proposed Developments	Date of Consideration	Approval Conditions
A/FSS/193	Proposed House (New Territories Exempted House - Small House)	11.06.2010	R1 & R2
A/FSS/266	Proposed House (New Territories Exempted House - Small House)	04.05.2018	R2, R3, R4 & R5
A/FSS/267	Proposed House (New Territories Exempted House - Small House)	04.05.2018	R2, R3, R4 & R5
A/FSS/271	Proposed House (New Territories Exempted House - Small House)	22.03.2019	R2, R3, R4 & R5
A/FSS/272	Proposed House (New Territories Exempted House - Small House)	22.03.2019	R2, R3, R4 & R5

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.
- R3 The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone which was 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 was a general presumption against development within this zone. There was no strong justification in the submission for a departure from the planning intention.
- R4 The proposed development was 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 were no exceptional circumstances or strong planning grounds to justify the application.
- R5 Land was still available within the "Village Type Development" zone of Tsung Pak Long where land was primarily intended for Small House development. It was 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.

Comments from Relevant Government Departments

1. Land Administration

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

- (a) the Site falls within the 'VE' of Tsung Pak Long Village;
- (b) the applicant is an indigenous villager of Tsung Pak Long Village. His eligibility for Small House concessionary grant has been ascertained;
- (c) the Site is not covered by any Modification of Tenancy but covered by a proposed Building Licence;
- (d) the number of outstanding Small House applications in Tsung Pak Long Village is 53;
- (e) the number of 10-year Small House demand forecast provided by the relevant Indigenous Inhabitant Representative of Tsung Pak Long Village is 220;
- (f) the Small House application in respect of the Site was received by his office on 20.12.2012 and was approved in principle by his office in October 2018 pending execution of licence document; and
- (g) in order to cater for any possible physical site features/ constraints, the final approved footprint/ layout of the proposed Small House by his office may be subject to amendment/ revision. However, he would try to minimize the change and keep any shifting as slightly as possible.

2. Building Matters

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

- (a) as the application for erection of Small House under Cap. 121 is outside the jurisdiction of his department, he is not in the position to comment on the proposed Small House development; and
- (b) in case DLO 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 Building Ordinance. In the circumstances, an Authorised Person should be appointed as the coordinator for the proposed works.

3. Landscape

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

- (a) she has some reservations on the application from the landscape planning perspective;
- (b) the Site is located to the north of Fanling Highway, and falls within an area zoned “Green Belt” (“GB”) on the approved Fanling/Sheung Shui Outline Zoning Plan (OZP) No. S/FSS/24;
- (c) according to aerial photo of 2019, the Site is situated in an area of rural inlands plains landscape character comprising clusters of trees, densely vegetated areas and village houses. Based on her site record taken on 10.7.2020, the Site is covered by wild grass, and two existing trees of common species in Hong Kong are observed in the southern portion of the site. A mature tree of large size is found to the immediate southeast of the site, tree crown of the subject tree has protruded into the site boundary. Potential adverse impact on the concerned mature tree of large size arising from the proposed development could not be ascertained;
- (d) the proposed NTEH and the adjacent NTEHs in the vicinity previously approved by the Committee in 2015 under applications Nos. A/FSS/228, 229 and 244 have encroached into the “GB” zone which serves as a green buffer between Tsung Pak Long and Fanling Highway. The proposed development, if approved, would encourage more similar development further into the “GB” zone and the cumulative impact of such approval would further degrade the landscape quality of the surrounding environment. In view of the above, she has some reservations on the application from the landscape planning perspective; and
- (e) There is limited space within the Site for meaningful landscaping, should the Board approve the application, it is consider not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

4. Nature Conservation

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

- (a) his recent site investigation revealed that the Site is covered with some herbaceous plants and trees of common species. A watercourse is located to the west of the Site. A mature *Ficus microcarpa* 細葉榕 (T1) was located to the southeast of the Site. Part of the crown and root of T1 extended to the Site and might be adversely affected by the application. The applicant is advised to adopt good site practice so as to avoid adverse impact on the subject tree and the watercourse nearby.

5. Fire Safety

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

- (a) he has no in-principle objection to the application provided that the application would not affect any ‘means of access for the passage of FS appliances’ and/or ‘emergency vehicular access’ and no ‘means of access for the passage of FS appliances’ and/or ‘emergency vehicular access’ clause in any of the building license of the nearby Small

Houses would be affected; and

- (b) the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

6. **Water Supply**

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

- (a) he has no objection to the application; and
- (b) for the provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant 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.

Recommended Advisory Clauses

- (a) to note the comments of CBS/NTW, BD that in case DLO decided 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 should be appointed as coordinator for the proposed works.
- (b) to note the comments of DAFC that the applicant is advised to adopt good site practice so as to avoid adverse impact on the *Ficus microcarpa* located to the southeast of the Site and the watercourse nearby.
- (c) to note the comments of D of FS that the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (d) to note the comments of CE/C, WSD that for provision of water supply to the developments, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant 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;
- (e) to note the comments of DEP that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person; 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 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.

