

**Relevant Revised Interim Criteria for Assessing Planning Applications for
NTEH/Small House Development in the New Territories
(promulgated 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 at the Application Site

Approval Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/381	Proposed Eight Houses (New Territories Exempted Houses)	22/5/2009	A1 – A8

Approval Conditions

- A1. The submission of water pollution risks and impacts assessment to demonstrate that the proposed development would not cause any material increase in the pollution effect in the water gathering grounds
- A2. The submission of site formation plans
- A3. The provision of protective measures to ensure no siltation would occur and no pollution to the water gathering grounds including the stream course to the south of the application site
- A4. The connection of the foul water drainage system to public sewers when available
- A5. The provision of drainage facilities
- A6. The submission of a detailed tree survey report and a landscape and tree preservation proposal including a compensatory planting scheme prior to any site clearance or site formation works
- A7. The implementation of the landscape and tree preservation proposal
- A8. The provision of fire fighting access, water supplies and fire service installations

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/2	Proposed Residential Development	21/04/1995 (Review)	R1-R4
A/NE-KLH/349	Proposed Eight Houses (New Territories Exempted Houses)	17/08/2007 (Review)	R5 –R7

Rejected Reasons

- R1. The proposed layout is not satisfactory in respect of the disposition and orientation of the houses.
- R2. The proposed development will generate additional traffic on the already congested south-bound carriageway of the Tolo Highway, Tate's Cairn Tunnel and Lion Rock Tunnel in the morning peak hour. There is still insufficient information in the written representation to demonstrate that the proposed development will not aggravate traffic congestion on the existing road network.
- R3. The proposed development will be exposed to traffic noise and insufficient noise mitigation measures have been included in the written representation.
- R4. The proposed development will require felling of mature trees and the tree preservation and landscaping proposals submitted are inadequate to minimise the felling of mature trees and to compensate for the loss.
- R5. The proposed development was located within the water gathering grounds (WGG) but was unable to be connected to the existing or planned public sewers in the area. There were reservation on technical and practicality aspects of the local application of the proposed communal sewage treatment plant as a permanent facility for treating the sewage generated from the proposed development in WGG to meet the required discharge standards. The proposed Deed of Mutual Covenant arrangement was also considered not a viable legal entity to ensure proper long term operation and maintenance of the sewage treatment plant nor did it guarantee continuous funding by the future house owners. There was insufficient information in the submission to demonstrate that the proposed development would not cause adverse impact on the water quality in the area.
- R6. The approval of the application would set an undesirable precedent for similar applications in the future, resulting in substantial cumulative environmental and traffic impacts.
- R7. There was insufficient information in the submission to demonstrate that the proposed development would not cause adverse impact on the existing large trees. The approval of the application might set an undesirable precedent, leading to gradual destruction of the remaining woodland in the vicinity which was an important landscape resource to the area.

**Similar Applications
in the vicinity of the Site within the same “Agriculture” zone
on the Kau Lung Hang Outline Zoning Plan**

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/453	Proposed House (New Territories Exempted House – Small House)	19/7/2013	R1
A/NE-KLH/501	Proposed House (New Territories Exempted House – Small House)	2/9/2016 (Review)	R2-R3

Rejection Reasons

- R1. The proposed development did not comply with the Interim Criteria in that the proposed development would involve tree felling and cause adverse landscape impact on the surrounding areas. There was no information in the submission to demonstrate that the proposed development would not have adverse impact on the existing landscape resources within the application site as well as the woodland in the vicinity.
- R2. The proposed development does not comply with the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding areas.
- R3. Land is still available within “V” zone of Wai Tau Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

**Director of Environmental Protection's Comments on
the Planning Statement regarding Noise Impact**

1. Bullet 15 of Executive Summary, S5.2.2.4, S5.2.2.5(iii) and S6.15.1:
 - It is noted from elsewhere of the Planning Statement that tree planting is proposed for purposes of landscaping, greenery, etc. While the proposed tree planting is for esthetical enhancement purpose, the planting would have negligible effect on reducing traffic noise and shall not be considered as a noise mitigation measure.

2. Row 7 of Table 2.2, S5.2.2.3, S5.2.24 and S6.15.1:
 - (a) The application site should have no planning approval status when the concerned EIA for "Widening of Tolo Highway/Fanling Highway between Island House Interchange and Fanling" (Register No. AEIAR-037/2000) was being conducted (Year 2000). The application site was hence not identified as representative NSR for the EIA. The claim of no traffic noise impact based on the findings of the EIA is irrelevant and misleading.

 - (b) For the noise measurement contained in the previous application (A/NE-KLH/381), considering it was already about 10 years ago meanwhile the nearby road networks have undergone some major modifications along with the widening project, not to mention the increase in traffic over the years, the relevant measurement is considered not applicable and does not support that the application site is in compliance with the HKPSG noise criteria. Also, the validity of the noise measurement data contained in the previous application was yet to be confirmed.

3. The proposed NTEHs will be subject to adverse traffic noise impact and appropriate noise mitigation measures should be implemented in the proposed development in accordance with the HKPSG to address the noise impact. Examples of useful design and measures may include but not limited to arranging non-noise sensitive uses (e.g. kitchen, bathroom, storeroom and enclosed staircases) and provision of fixed glazing at the facades having line of sight to the nearby roads, boundary walls, etc.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that the proposed development with a building height reduced from not exceeding 8.23m to 7.62m (i.e. 25 feet) is not in conflict with the lease conditions governing the Site . If the application is approved, the applicant is not required to seek a lease modification from LandsD to implement the proposed development;
- (b) to note the comments of the Director of Environmental Protection (DEP) that :
- (i) no actual construction of the proposed houses until the public sewerage is available for connection;
 - (ii) written consents should be obtained from the adjacent lot owner(s) for laying and maintaining sewage pipes across the adjacent lot(s), if necessary;
 - (iii) adequate land space within the application site should be reserved for connection of the proposed houses to the public sewer;
 - (iv) the cost of sewer connection will be borne by the applicant;
 - (v) the applicant should provide adequate noise mitigation measures in the proposed development in accordance with the Hong Kong Planning Standards and Guidelines (HKPSG) to alleviate the traffic noise impact;
 - (vi) the applicant should implement good site practices and adopt measures in ProPECC PN 1/94 “Construction Site Drainage” during the construction of the proposed houses to avoid disturbances to watercourses;
 - (vii) although no insurmountable technical difficulties are envisaged for the sewer connection, the applicant should pay attention to avoid potential conflict with other underground utilities when making the sewer connection. The actual alignment and number of intermediate private manholes will depend on site conditions and the applicant should submit plans showing the actual connection works to DSD in association with its future technical audit under the prevailing mechanism. The applicant could check DSD and DEVB’s Practitioners Guidelines on “Arrangement for Private Developers to employ their own Contractors to carry out Drainage Connections” regarding the procedures to be followed and the maintenance responsibility of the connection works; and
 - (viii) detailed comments on the Planning Statement regarding noise impact are at **Appendix V**;
- (c) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD) that:
- (i) no actual construction of the proposed houses until the public sewerage network has been completed;
 - (ii) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed houses to the sewerage system via relevant private lot;

- (iii) since the proposed house itself is less than 30m from the nearest water course, it should be located as far away from the water course as possible;
 - (iv) the whole of foul effluent shall be conveyed through cast iron pipes or other approved material with sealed joints and hatchboxes from the proposed houses to the public sewer; and
 - (v) for provision of water supply to the development, 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 WSD's standards;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
- (i) there are no public drain maintained by DSD in the vicinity of the Site. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the site as well as overland flow from the surrounding areas. The applicant is required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the systems;
 - (ii) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer on the drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. The applicant should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected;
 - (iii) the Site is within an area where connections to existing sewerage networks will be available in the vicinity. Should the applicant choose to connect his proposed sewerage systems to DSD's networks, the applicant shall submit the connection proposals to the Chief Engineer/Consultants Management of DSD for agreement;
 - (iv) the applicant is required to rectify/modify the drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system;
- (e) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that:
- (i) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the mentioned 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 concerned site. They should observe the Electricity Supply Lines (Protection) Regulations 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;

- (ii) there are high pressure and intermediate pressure underground town gas transmission pipelines (running along Tai Wo Service Road West) in the vicinity of the Site. It is anticipated that the Site will result in a significant increase in population in the vicinity of the above gas installations. A risk assessment would be required from the applicant to assess the potential risks associated with the gas installations, having considered the proposed development at the Site;
 - (iii) the applicant/consultant/works contractor shall liaise with the Hon Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development; and
 - (iv) the applicant/ consultant/ works contractor is required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes" for reference;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) on the Master Landscape Plan that:
- (i) the planting location of the proposed compensatory tree at House 3 is in conflict with pedestrian path. Please review;
 - (ii) the proposed compensatory trees for House 2 and House 5 are considered too close to the houses. A minimum 3m clearance should be maintained between trees and buildings;
 - (iii) noting approximately 4m level difference along the southern boundary, landscape treatment(s) along the southern boundary should be provided for screening of the retaining wall to mitigate the visual impact to the surrounding environment;
 - (iv) referring to site inspection, it is observed that T14 is two *Delonix regia* (鳳凰木) with separate trunks instead of one tree with co-dominant trunk as specified in the Tree Assessment Schedule. Please review;
 - (v) the two existing trees (T1 and T16) included in the Master Landscape Plan are outside the site boundary. Please advise the responsible party of tree maintenance and whether consent and/or agreement from the party concerned have been sought; and
 - (vi) compensatory trees are proposed on existing artificial steep slope, i.e. eight *Michelia x alba* (白蘭) along the southern boundary. A typical section showing dimensions and details of the proposed tree and its relationship with the existing slope are required; and
- (g) to note the comments of Chief Buildings Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- (i) the proposed NTEHs should strictly comply with Buildings Ordinance (Application to the New Territories) Ordinance;
 - (i) the proposed communal drainage system and the access road shown on the layout plan are considered as non-exempted building works and it should be submitted to the Building Authority for approval prior to commencement of works. Detailed comments will be given at the plan submission stage; and

- (ii) the applicant shall be reminded that plans should be submitted to the Building Authority for approval prior to commencement of works if non-exempted site formation is involved; and

- (h) 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.