

**Relevant Revised Interim Criteria for Consideration of
Application for NTEH/Small House in 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 Application covering the Application Site
on the Kau Lung Hang Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/247	Proposed House (New Territories Exempted House – Small Houses)	22.12.2000	A1 – A5

Approval Conditions

- A1. The provision of drainage facilities.
- A2. The disposal of spoils during the site formation and construction period to the satisfaction of the Director of Water Supplies or of the Town Planning Board.
- A3. The provision of septic tank and soakaway pit for foul effluent disposal and the sewerage connection at a distance of not less than 30m from any watercourses.
- A4. The submission and implementation of landscaping proposals and/or tree preservation proposal.
- A5. The provision of fire services installations.

**Similar Applications
in the vicinity of the Site within the same “Green Belt” Zone on the
Approved Kau Lung Hang Outline Zoning Plan No. S/NE-KLH/11**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/246	Proposed House (New Territories Exempted House – Small Houses)	22/12/2000	A1 – A5
A/NE-KLH/254	Proposed House (New Territories Exempted House – Small Houses)	02/02/2001	A1 – A4
A/NE-KLH/258	Proposed House (New Territories Exempted House – Small Houses)	02/02/2001	A1 – A4
A/NE-KLH/261	Proposed House (New Territories Exempted House – Small Houses)	02/02/2001	A1 – A4
A/NE-KLH/263	Proposed House (New Territories Exempted House – Small Houses)	02/02/2001	A1 – A4
A/NE-KLH/264	Proposed House (New Territories Exempted House – Small Houses)	02/02/2001	A1 – A4
A/NE-KLH/395	Proposed House (New Territories Exempted House – Small Houses)	15/01/2010	A1, A6 – A10
A/NE-KLH/460	Proposed House (New Territories Exempted House – Small Houses)	07/03/2014	A1, A4, A9, A11

Approval Conditions

- A1. The provision of drainage facilities.
- A2. The disposal of spoils during the site formation and construction period to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

- A3. The provision of septic tank and soakaway pit for foul effluent disposal and the sewerage connection at a distance of not less than 30m from any watercourses.
- A4. The submission and implementation of landscaping proposals and/or tree preservation proposal.
- A5. The provision of fire services installations.
- A6. The submission of a tree survey and landscape proposal prior to any site clearance works.
- A7. The implementation of the approved landscape proposal.
- A8. The connection of the foul water drainage system to the public sewers.
- A9. The provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds.
- A10. The provision of fire fighting access, water supplies and fire service installations.
- A11. The connection of the foul water drainage system of the proposed New Territories Exempted House (NTEH)/Small House to the planned public sewerage system in the area and the whole of the foul water drainage system to the planned public sewerage system upon its completion.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejected Reasons
A/NE-KLH/394	Proposed Five Houses (New Territories Exempted House – Small Houses)	30/04/2010 (Review)	R1-R2
A/NE-KLH/524	Proposed House (New Territories Exempted House – Small Houses)	26/05/2017	R3-R6
A/NE-KLH/528	Proposed House (New Territories Exempted House – Small Houses)	06/10/2017	R3, R6-R8

Rejected Reasons

- R1. The proposed development did not comply with the interim criteria for assessing planning application for New Territories Exempted House (NTEH)/Small House development in that it was uncertain whether the proposed Small Houses could be connected to the planned sewerage system in the area. The proposed development would likely cause adverse water quality impacts on the surrounding areas, in particular the natural stream course to the west of the site.

- R2. The approval of the application would set an undesirable precedent for other similar applications leading to more Small House applications in the subject “Green Belt” zone. This would degrade the landscape quality of the area.
- R3. The proposed development was not in line with the planning intention of “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 planning justification provided in the submission to justify a departure from the planning intention.
- R4. The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories in that the applicant failed to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the existing and planned sewerage system and would not cause adverse impact on the water quality in the area and that the proposed development would not have adverse geotechnical impact on the surrounding area.
- R5. The application did not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance in that the proposed development would have adverse landscape and sewerage impacts on the surrounding areas and would be affected by slope in the vicinity.
- R6. Land was still available within the “Village Type Development” (“V”) zone of Yuen Leng and Kau Lung Hang which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- R7. The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories in that the applicant failed to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the existing and planned sewerage system and would not cause adverse impact on the water quality and natural landscape in the area.
- R8. The approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the natural environment and landscape quality of the area.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the applicant is an indigenous villager of Shuen Wan Wai Ha Village, Tai Po, as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has not been ascertained;
- (c) the subject lot is held under Block Government Lease demised for agricultural use;
- (d) the Site is not covered by Modification of Tenancy/ Building Licence;
- (e) the Small House application for the Site has been submitted to this office and is under processing;
- (f) if and after planning approval has been given by the Board, LandsD will process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small House concerned or approval of the emergency vehicular access thereto;
- (g) the Site falls entirely within the 'VE' of Yuen Leng and Kau Lung Hang; and
- (h) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand *</u>
Yuen Leng	87	257
Kau Lung Hang	43	100

(* The figures of 10-year Small House demand were estimated and provided by the IIR of Yuen Leng and Kau Lung Hang respectively and the information so obtained is not verified in any way by DLO/TP)

2. Traffic

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

- (a) in general, he has reservation on the application;

- (b) such type of development should be confined within the “Village Type Development” (“V”) zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (c) notwithstanding the above, he considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds; and
- (d) the existing village access on and near the Site is not under Transport Department’s management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within “Green Belt” (“GB”) zone, and is within water gathering ground (WGG). The planned public sewer to serve the Site is part of the Yuen Leng village sewerage, which was degazetted in October 2010 due to conflicting views among some of the land owners over the extent of proposed land resumption. Currently there is no fixed timetable for implementing the said sewerage scheme; and
- (b) he does not support the application as the Site falls completely outside the “V” zone and within the WGG, and no public sewerage will be available to serve the proposed Small House in the near future.

4. Landscape

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

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising of scattered tree groups, village houses and abandoned farmland. Although the proposed development is not in line with the planning intention of “GB” zone, it is not incompatible to the surrounding environment;
- (c) the Site is vacant and partly paved with asphalt. Part of the Site is covered with weeds and grasses. Adverse impact to significant landscape resources is not anticipated; and
- (d) since the footprint of proposed house covers most of the Site, there is inadequate space for landscaping within the Site. Should the Board approve

the application, the standard condition on submission and implementation of landscaping proposal is not recommended.

5. Drainage and Sewerage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no existing DSD maintained public storm drain available for connection in this area. The development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/ fence to allow surface runoff to pass through the Site if any boundary wall fence are to be erected. Any existing flow path affected should be re-provided. A condition to ensure that the proposed development would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas should be considered. The applicant/lot owner is required to maintain the drainage system properly and rectify the system if it is found to be inadequate or ineffective during operation. The applicant/lot owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the drainage system;
- (d) 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. He 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. In particular, a minimum clearance of 3m should be maintained between the proposed development and the top of the embankment of existing streamcourses/ponds/rivers;
- (e) DEP should be consulted regarding the sewage treatment/disposal aspects of the proposed development and the provision of septic tank; and
- (f) for works to be undertaken outside the lot boundary, prior consent and

agreement from LandsD and/or relevant lot owners should be sought.

5.2 Comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD):

- (a) according to the proposed sewerage scheme under North District Sewerage, Stage 2 Phase 1 for Yuen Leng Village, public sewerage connection point will be provided in the vicinity of the Site. Nevertheless, since this sewerage scheme was degazetted on 29.10.2010, there is no fixed programme at this juncture for the implementation of the concerned sewerage works; and
- (b) notwithstanding the above, the proposed sewerage scheme might be fine-tuned in the course of finalizing the design. The applicant is therefore suggested to pay continuing attention to the latest development of the proposed sewerage scheme. DSD will keep all relevant village representatives posted in this regard. It is understood that, subject to actual construction of the public sewerage being in sufficient proximity to the boundary of a land lot, EPD may require the lot owners at his/her own cost to make proper sewer connection from his/her premises to the public sewerage and to decommission the private sewer, septic tank and soakaway pit.

6. Nature Conservation

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

- no strong view on the application as the Site is partly covered with common herbs and weeds.

7. Fire Safety

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

- (a) no in-principle objection to the application; and
- (b) the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

8. Water Supply

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

- (a) objects to the application; and
- (b) the Site is located within the upper indirect WGG. There is no programme for the construction of the planned public sewers to serve Yuen Leng Village as

advised by DEP. Sewer connectivity is thus in question and it is considered that compliance with criterion (i) of the Interim Criteria cannot be established.

9. Electricity Supply and Safety

Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no comment on the application from electricity supply safety aspect; and
- (b) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with the 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. The applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation (the 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.

10. Demand and Supply of Small House Sites

According to DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Kau Lung Hang and Yuen Leng is 130 while the 10-year Small House demand forecast for the same villages is 357. Based on the latest estimate by PlanD, about 6.77 ha (or equivalent to about 270 Small House sites) of land are available within the “V” zone of Kau Lung Hang and Yuen Leng. Therefore, the land available cannot fully meet the Small House demand of about 12.18 ha (or equivalent to about 487 Small House sites).

Recommended Advisory Clauses

- (a) the construction of the Small House should not commence before the completion of the planned sewerage system and should be connected to the future public sewer when available;
- (b) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP of LandsD) that if the Small House application is approved by LandsD acting in capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (c) to note the comments of the Commissioner for Transport (C for T) that the existing village access on and near the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified by the applicant with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no existing DSD maintained public storm drains available for connection in this area. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant/lot owner is required to maintain the drainage system properly and rectify the system if it is found to be inadequate or ineffective during operation. The applicant/lot owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the drainage system;
 - (ii) the applicant should design the drainage proposal based on the actual site condition 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 that no adverse impact will be caused to the area due to the proposed works. The existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3 meters should be maintained between the proposed development and the top of the embankment of existing stream courses/ponds/rivers; and
 - (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant lot owner should be sought;

- (e) to note the comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD) that:
 - (i) according to the proposed sewerage scheme under North District Sewerage, Stage 2 Phase 1 for Yuen Leng Village, public sewerage connection point will be provided in the vicinity of the Site. However, since this sewerage scheme was degazetted on 29.10.2010, there is no fixed programme at this juncture for the implementation of the concerned sewerage works; and
 - (ii) the proposed sewerage scheme might be fine-tuned in the course of finalizing the design. The applicant is suggested to pay continuing attention to the latest development of the proposed sewerage scheme. DSD will keep all relevant village representatives posted in this regard. It is understood that, subject to actual construction of the public sewerage being in sufficient proximity to the boundary of a land lot, DEP may require the lot owners at his/her own cost to make proper sewer connection from his/her premises to the public sewerage and to decommission the private sewer, septic tank and soakaway pit;
- (f) to note the comments of the Director of Fire Services 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;
- (g) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with the 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. The applicant should observe the Electricity Supply Lines (Protection) Regulation (the 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; 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.