

**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 s.16 Application at the Application Site

Rejected Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/394	Proposed Five Houses (New Territories Exempted Houses- Small Houses)	30.04.2010 on review	R1 – R2

Rejection Reasons

- R1. The proposed development did not comply with the interim criteria for assessing planning application for 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” (“GB”) zone. This would degrade the landscape quality of the area.

**Similar Applications within the same “Green Belt” Zone
on the Kau Lung Hang Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/246	Proposed House (Small House)	22.12.2000	A1 – A5
A/NE-KLH/247	Proposed House (Small House)	22.12.2000	A1 – A5
A/NE-KLH/254	Proposed New Territories Exempted House (NTEH) (Small House)	02.02.2001	A1 – A4
A/NE-KLH/258	Proposed New Territories Exempted House (NTEH) (Small House)	02.02.2001	A1 – A4
A/NE-KLH/261	Proposed New Territories Exempted House (NTEH) (Small House)	02.02.2001	A1 – A4
A/NE-KLH/263	Proposed New Territories Exempted House (NTEH) (Small House)	02.02.2001	A1 – A4
A/NE-KLH/264	Proposed New Territories Exempted House (NTEH) (Small House)	02.02.2001	A1 – A4
A/NE-KLH/395	Proposed House (New Territories Exempted House - Small House)	15.01.2010	A1, A4 – A8
A/NE-KLH/460	Proposed House (New Territories Exempted House - Small House)	07.03.2014	A1, A4, A8, A9

Approval Conditions

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

- A4. The submission and/or implementation of landscaping proposal and/or tree preservation proposals
- A5. The provision of fire fighting access, water supplies and fire service installations
- A6. The submission of a tree survey and landscape proposal prior to any site clearance works
- A7. The connection of the foul water drainage system to the public sewers
- A8. The provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds
- A9. The connection of the foul water drainage system of the proposed 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/524	Proposed House (New Territories Exempted House - Small House)	26.05.2017	R1-R4
A/NE-KLH/528	Proposed House (New Territories Exempted House - Small House)	20.05.2019 (Appeal dismissed) [#]	R1, R2, R4, R5
A/NE-KLH/550	Proposed House (New Territories Exempted House - Small House)	15.06.2018	R1, R2, R4

[#] Appeal dismissed by Town Planning Appeal Board on 20.5.2019

Rejection Reasons

- R1. 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.
- R2. The proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/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 and that the proposed development would not have adverse geotechnical impact on the surrounding area.

- R3. 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.
- R4. Land was still available within the "Village Type Development" ("V") zone of Yuen Leng and Kau Lung Hang San Wai and Kau Lung Hang Lo Wai 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.
- R5. 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 ex-Luk Heung Chung Pui Village of Tai Po as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
- (c) the application site (the Site) is held under Block Government Lease demised for agricultural use. The Small House application submitted by the applicant for the Site is still under processing;
- (d) the Site is not covered by any Modification of Tenancy or Building Licence;
- (e) the Site falls within the village 'environs' ('VE') of Yuen Leng and Kau Lung Hang;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follow:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand *</u>
Kau Lung Hang	51	100
Yuen Leng	83	261

(* The figures of 10-year Small House demand were estimated and provided by the IIR of concerned villages and the information so obtained is not verified in any way by LandsD); and

- (g) if and after planning permission has been given by the Town Planning Board (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 (EVA) thereto.

2. Traffic

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

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

- (b) notwithstanding the above, he considers that the application only involving the development of a Small House can be tolerated on traffic grounds.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within “GB” zone, and is within water gathering ground (WGG). There is no existing or planned public sewer in the immediate vicinity of the Site. The applicant proposes the use of septic tank and soakaway system to treat wastewater generated onsite, which should be avoided within WGG according to Chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG). Considering the above, he does not support the application; and
- (b) the applicant may note that there is planned sewer under the Yuen Leng Village sewerage project at some 60m to the west of the subject lot across the river/drainage channel. However, there is currently no fixed timetable for implementing the said sewerage scheme. When the sewerage scheme is implemented, the applicant may wish to explore the technical feasibility of connecting the proposed NTEH to the public sewer, which involve fairly long distance across multiple lots and river/ drainage channel. Consent/ permission from concerned lot owners and/or LandsD for laying and maintaining sewage pipes across the concerned lots shall be sought. Drainage Services Department’s advice should also be sought on the technical feasibility of the future sewer connection proposal.

4. **Landscape**

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

- (a) some reservations on the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising of scattered tree groups, abandoned farmlands and village houses concentrated within “V” zone. Similar Small House applications approved by the Board are found in close proximity within the “GB” zone. The proposed development is not incompatible with the surrounding environment;
- (c) the Site is covered with grasses and groundcovers. No existing tree is found within the Site. Although significant adverse impact on landscape resources is not anticipated, approval of the proposed development would encourage similar piecemeal Small House applications within the “GB” zone. The cumulative effect of extending village development outside “V” zone would undermine the integrity of the “GB” zone and degrade the landscape character of the area; and

- (d) since the footprint of proposed house covers most of the Site, there is inadequate space for meaningful landscape to benefit public realm. Should the application be approved by the Board, it is considered unnecessary to impose any condition for submission and implementation of landscaping proposal.

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, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) there is no existing DSD maintained public drain available for connection in the area. The applicant should have his own stormwater collection and discharge system 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. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage 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 failure of the systems;
- (d) public sewerage is not available near the Site; and
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

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

- (a) public sewerage works in the area of Yuen Leng is currently under planning and design stages through a consultancy service;
- (b) as a sewerage scheme is currently under planning and design for Yuen Leng, 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 their own cost to make proper sewer connection from their premises to the

public sewerage and to decommission the private sewer, septic tank and soakaway pit; and

- (c) the applicant shall complete the necessary sewerage works to connect the discharge from the proposed developments to the public sewerage at his own cost, if available, in future.

6. Agriculture

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

- the Site is overgrown with common herbs. He has no strong view on the application should there be no alternative site.

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):

- the Site is located within upper indirect WGG and is less than 30m from the nearest stream. There is no fixed timetable for the construction of planned public sewers to serve Yuen Leng and the applicant proposed to use septic tank/soakaway system as sewage disposal method. Thus, the application could not meet the assessment criteria item B(i) of the "Interim Criteria for Consideration of Applications for NTEH/Small House in New Territories". He objects to the application.

9. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang is 134 while the 10-year Small House demand forecast for the same villages is 361. Based on the latest estimate by the PlanD, about 6.28 ha of land (equivalent to about 250 Small House sites) are available within the "V" zone of Yuen Leng and Kau Lung Hang. Therefore, the land available cannot fully meet the future Small House demand of 495 Small Houses (equivalent to about 12.38 ha of land).

Recommended Advisory Clauses

- (a) the construction of the Small House should not commence before the completion of the public 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, LandsD) that 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;
- (c) to note the comments of the Director of Environmental Protection (DEP) that there is planned sewer under the Yuen Leng Village sewerage project at some 60m to the west of the subject lot across the river/drainage channel. However, there is currently no fixed timetable for implementing the said sewerage scheme. When the sewerage scheme is implemented, the applicant may wish to explore the technical feasibility of connecting the proposed Small House to the public sewer, which involve fairly long distance across multiple lots and river/ drainage channel. Consent/ permission from concerned lot owners and/or LandsD for laying and maintaining sewage pipes across the concerned lots shall be sought. Drainage Services Department's advice should also be sought on the technical feasibility of the future sewer connection proposal
- (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 drain available for connection in the area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the application site (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. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage 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 failure of the systems;
 - (ii) public sewerage is not available for connection in the vicinity of the Site; and
 - (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
- (e) to note the comments of the Chief Engineer/Consultant Management, Drainage Services Department (CE/MN, DSD) that:

- (i) public sewerage works in the area of Yuen Leng is currently under planning and design stages through a consultancy service;
 - (ii) as a sewerage scheme is currently under planning and design for Yuen Leng, 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 their own cost to make proper sewer connection from their premises to the public sewerage and to decommission the private sewer, septic tank and soakaway pit; and
 - (iii) the applicant shall complete the necessary sewerage works to connect the discharge from the proposed developments to the public sewerage at his own cost, if available, in future.
- (f) to note the comments of the Director of Fire Services that the applicant should 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; and
- (g) 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.