

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.

**Similar s.16 Applications in the vicinity of the Site and within the same “AGR” zone
on the Lam Tsuen Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-LT/356	Proposed House (New Territories Exempted House - Small House)	28.4.2006	A1-A6
A/NE-LT/357	Proposed House (New Territories Exempted House - Small House)	28.4.2006	A1-A6
A/NE-LT/358	Proposed House (New Territories Exempted House - Small House)	28.4.2006	A1-A6
A/NE-LT/383	Proposed House (New Territories Exempted House - Small House)	4.7.2008	A1-A4, A7,A8
A/NE-LT/398	Proposed House (New Territories Exempted House - Small House)	4.9.2009	A1-A4, A7
A/NE-LT/410	Proposed House (New Territories Exempted House - Small House)	15.4.2011	A1, A3, A4, A7,A10
A/NE-LT/438	Proposed House (New Territories Exempted House - Small House)	24.2.2012	A1-A4,A7,A8
A/NE-LT/442	Proposed House (New Territories Exempted House - Small House)	24.2.2012	A1-A4,A7,A8
A/NE-LT/443	Proposed House (New Territories Exempted House – Small House)	24.2.2012	A1-A4,A7,A8
A/NE-LT/444	Proposed House (New Territories Exempted House – Small House)	24.2.2012	A1-A4,A7,A8
A/NE-LT/453	Proposed House (New Territories Exempted House – Small House)	15.6.2012	A1-A4,A7,A10
A/NE-LT/472	Proposed House (New Territories Exempted House – Small House)	15.3.2013	A1-A4,A10

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-LT/486	Proposed House (New Territories Exempted House – Small House)	8.11.2013	A1-A4
A/NE-LT/506	Proposed House (New Territories Exempted House – Small House)	27.6.2014	A1,A3,A4,A9
A/NE-LT/596	Proposed House (New Territories Exempted House – Small House)	13.1.2017	A3,A4,A9
A/NE-LT/600	Proposed House (New Territories Exempted House - Small House)	7.7.2017 (on Review)	A3,A4,A9
A/NE-LT/601	Proposed House (New Territories Exempted House - Small House)	7.7.2017 (on Review)	A3,A4,A9
A/NE-LT/603	Proposed House (New Territories Exempted House - Small House)	26.5.2017	A3, A4,A8,A9
A/NE-LT/607	Proposed House (New Territories Exempted House - Small House)	12.5.2017	A3,A4,A8,A9, A11

Approval Conditions

- A1 The submission and implementation of landscape proposals to the satisfaction of the Director of Planning or of the Town Planning Board.
- A2 The provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board.
- A3 The connection of the foul water drainage system to public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board.
- A4 The provision of protective measures to ensure no siltation occurred or no pollution to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.
- A5 The submission of a slope assessment and the implementation of stabilization works identified therein to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board.
- A6 The provision of an emergency vehicular access or the incorporation of residential sprinkler system to the satisfaction of the Director of Fire Services or of the Town Planning Board.
- A7 The provision of fire fighting access, water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

- A8 The submission of a natural terrain hazard study and the implementation of the mitigation measures identified therein to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board.
- A9 The submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.
- A10 The submission of a Geotechnical Planning Review Report to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board.
- A11 The submission and implementation of tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-LT/423	Proposed House (New Territories Exempted House - Small House)	3.6.2011	R1-R2
A/NE-LT/446	Proposed House (New Territories Exempted House - Small House)	20.1.2012	R1,R3-R5

Rejection Reasons

- R1. 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' (the Interim Criteria) in that the proposed Small House within the upper indirect Water Gathering Ground (WGG) might not be able to be connected to the planned public sewers in the area. The applicant failed to demonstrate in the submission that the proposed development located within the WGG would not cause adverse impact on the water quality in the area.
- R2. The proposed development would affect the existing trees on the application site. The applicant failed to demonstrate in the submission that the proposed development would not have adverse impact on the existing trees located within the site.
- R3. The proposed development was not in line with the planning intention of the "Agriculture" zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention.
- R4. The proposed development did not comply with the Interim Criteria in that the footprint of the proposed Small House fell entirely outside the "Village Type

Development” (“V”) zone and more than 50% of the proposed Small House footprint was located outside the village 'environs' of Tai Mong Che Village.

- R5. The proposed development did not comply with the Interim Criteria in that there was no information in the submission to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding 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 claimed himself as an indigenous villager (IV) of Kam Chuk Pai. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site falls partly an Old Schedule Lot under Block Government Lease demised for agricultural use and partly on adjoining Government land. The applicant is the registered owner of the subject lot and the Small House application has been received by LandsD;
- (d) the Site falls within the village 'environs' ('VE') of Tai Mong Che and is not covered by any Modification of Tenancy or Building Licence;
- (e) 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>
Tai Mong Che	28	150
Ma Po Mei	16	120

(*The figure of 10-year Small House demand was estimated and provided by the Indigenous Inhabitant Representative (IIR) of Tai Mong Che in 2014 and Ma Po Mei in 2009 respectively. The information so obtained is not verified in any way by LandsD.)

- (f) should the application be approved 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 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 applicant proposed to develop his Small House on his private lot and adjoining Government land which is situated on a slope. Thus, the proposed development would involve excavation and site formation works on Government land. Besides, some existing trees on Government land might also be affected;
- (h) the terminal manhole proposed to be connected is located far away from the proposed Small House whereas a long strip of Government land will be affected by the proposal which is undesirable from land administrative point of

view. The applicant should consider connecting to the nearest terminal as far as possible. Nevertheless, the proposed sewerage connection works will be considered when the application is due for processing by LandsD; and

- (i) the Site falls outside the nearest permitted burial ground.

2. **Environment**

Comments of the Director of Environmental Protection (DEP):

the Site straddles the border between “V” zone and “AGR” zone, and is within WGG. In the revised sewerage connection proposal, the applicant proposed to connect the subject Small House to the existing public sewerage at Tai Yeung Che. Sewer connection is feasible and capacity is available. However, the applicant should be advised that the proposed sewer manhole to be connected to is at a considerable distance of about 105m away from the Site. He has no objection to the application on the conditions that:

- (a) the proposed Small House will be connected to the public sewer for sewage disposal;
- (b) written consents can be obtained from the adjacent lot owners for laying and maintaining sewage pipes, if required;
- (c) adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer; and
- (d) the cost of sewer connection will be borne by the applicant.

3. **Landscape**

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

- (a) has some reservations on the application from the landscape planning point of view;
- (b) the Site is situated in an area of rural character comprising of active and fallow farmland, village house and woodland. Village Houses are concentrated to the east and south of the Site and are within “V” zone. The proposed development is not incompatible with the landscape character;
- (c) the Site has been cleared and partly covered with wild grass. Mature native woodland of high landscape value is found to the immediate west and north of the Site. *Pavetta hongkongensis* (香港大沙葉), a protected species under Forestry Regulations, is found less than 10m from the Site (**Plan A-2a**). Western portion of the Site is on an east-facing vegetated slope covered with mature native trees. Should the application be approved, the green wooded area in the locality will be further diminished. Besides, construction of the proposed Small House involves slope cutting/filling which affects the root system of the existing trees adjoining the Site. Yet, information regarding tree treatment and compensation are missing in the application;

- (d) the Site is partly within an area zoned “AGR” in which the proposed development is not in line with its planning intention. Approval of the application would set an undesirable precedent to similar development within this zone; and
- (e) should the application be approved by the Board, approval condition on the submission and implementation of a landscape proposal is recommended.

4. Drainage and Sewerage

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

- (a) no objection in principle to the application from public drainage point of view;
- (b) the Site is within an area where connections to existing sewerage networks are available in the vicinity.
- (c) should the applicant choose to connect his proposed drainage systems to DSD’s networks, he shall submit his connection proposals for agreement. After obtaining DSD’s agreement, the applicant 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 works to DSD for formal application for the required connections. 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 applicant; and
- (d) should the application be approved by the Board, 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 area. The applicant should note that they should design the drainage proposal based on the actual sites condition for DSD’s comment/agreement. DSD would not assist the lot owner/developer to his 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.

4.2 Comments of the Chief Engineer/Project Management, Drainage Services Department (CE/PM, DSD):

- no comment on the application as DSD’s project 4332DS – Lam Tsuen Valley Sewerage was substantially completed.

5. Agriculture

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

- has no strong view on the application as the Site has low potential for agricultural rehabilitation.

6. 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.

7. Water Supply

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

- (a) no objection to the application;
- (b) the Site is located within upper indirect WGG and is more than 30m away from the nearest water course. The proposed Small House footprint is entirely within the 'VE' of Tai Mong Che. DEP advised that the Site is able to be connected to the public sewerage system in the area. Thus, compliance of the application with item B(i) of the "Interim Criteria for Consideration of Applications for NTEH/Small House in NT" can be reasonably established;
- (c) it is noted that DEP required that the proposed Small House shall be connected to the sewerage system for sewage disposal. He supports DEP's view by imposing the following conditions:
 - (i) the foul water drainage system of the proposed Small House can be connected to the public sewerage system in the area and the applicant shall connect the whole of the foul water drainage system to the public sewerage system;
 - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG; and
 - (iii) 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 Small House to the public sewerage system via relevant private lot; and
- (d) 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.

8. Geotechnical Aspect

Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) no in-principle objection to the application as the applicant has committed to undertake a Natural Terrain Hazard Study (NTHS) and to provide suitable mitigation measures, if found necessary, as part of the proposed development in the revised Geotechnical Planning Review Report (GPRR);
- (b) the Site is overlooked by steep natural hillside and meets the Alert Criteria requiring an NTHS. The applicant is required to submit a GPRR to assess the geotechnical feasibility of the proposed development. The GPRR should include a preliminary geotechnical review of the natural terrain hazards, indicate the recommended extent of the NTHS study area and a commitment to undertake the NTHS and to provide any necessary mitigation measures as part of the development. Other essential contents of a GPRR are given in the GEO Advice Note. It is noted that the applicant has already submitted a GPRR in support of the application; and
- (c) should the application be approved, an approval condition on the submission of a NTHS and implementation of the mitigation measures recommended therein is required.

9. Electricity Supply

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 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 the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Tai Mong Che and Ma Po Mei is 44 while the 10-year Small House demand forecast for the same villages is 270. Based on the latest estimate by the Planning Department, about 2.7 ha (or equivalent to about 108 Small House sites) of land are available within the "V" zone of concerned villages. Therefore, the land

available cannot fully meet the future Small House demand of about 7.85 ha (or equivalent to about 314 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that there is no guarantee at this stage that the Small House application would be approved. If 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 also no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (b) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) written consents should be obtained from the adjacent lot owners for laying and maintaining sewage pipes, if required;
 - (ii) adequate land space within the Site should be reserved for connection of the proposed Small House to the public sewer; and
 - (iii) the cost of sewer connection should be borne by the applicant;
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) the Site is within an area where connections to existing sewerage networks are available in the vicinity;
 - (ii) should the applicant choose to connect his proposed drainage systems to DSD's networks, he shall submit his connection proposals for agreement. After obtaining DSD's agreement, the applicant 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 works to this Division for formal application for the required connections. 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 applicant; and
 - (iii) the applicant should design the drainage proposal based on the actual sites condition for DSD's comment/agreement. DSD would not assist the lot owner/developer to his 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;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
 - (i) 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 Small House to the planned sewerage system via relevant private lot; and

- (ii) 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;
- (e) to note the comments of the Director of Fire Services (D of FS) that the applicant should 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;
- (f) to note the comments of the Director of Electrical and Mechanical Services (DEMS) 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 concerned 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
- (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.