

**Relevant Revised Interim Criteria for Consideration of Application for
NTEH/Small House 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 application at the Site

Approved Application

Nil

Rejected Application

| Application No. | Proposed Development | Date of Consideration | Rejection Reasons |
|------------------------|--|------------------------------|--------------------------|
| A/NE-LT/309 | Proposed House (New Territories Exempted House – Small House) | 19/12/2003 | R1 – R2 |

Rejection Reasons

- R1. The application was not in line with the planning intention of the “Agriculture” (“AGR”) zone which was to retain and safeguard good agricultural land for agricultural purposes and to retain fallow agricultural land with good potential for rehabilitation.
- R2. The proposed development did not comply with the interim criteria for assessing planning application for New Territories Exempted House (NTEH)/Small House development in the New Territories in that the application site was not able to be connected to existing or planned sewerage system in the area. There was no information in the submission to demonstrate that the proposed development located within the water gathering grounds would not cause adverse impact on water quality in the area.

**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/253 | Proposed House (New Territories Exempted House - Small House) | 20/4/2001 | A1 - A5 |
| A/NE-LT/254 | Proposed House (New Territories Exempted House - Small House) | 18/5/2001 | A1 - A5 |
| A/NE-LT/264 | Proposed House (New Territories Exempted House - Small House) | 7/9/2001 | A1 - A5 |
| A/NE-LT/430 | Proposed House (New Territories Exempted House - Small House) | 22/7/2011 | A1, A4 - A7 |
| A/NE-LT/622 | Proposed House (New Territories Exempted House - Small House) | 22/12/2017 | A1, A6 - A7 |

Approval Conditions

- A1. The provision of drainage facilities / submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.
- 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 to the satisfaction of the Director of Water Supplies or of the Town Planning Board.
- A4. The provision of fire-fighting access, water supplies or/and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.
- A5. The submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board.

- A6. The connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board.
- A7. The provision of protection measures to ensure no pollution or siltation occurred to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

Rejected Applications

| Application No. | Proposed Development | Date of Consideration | Rejection Reasons |
|------------------------|--|------------------------------|--------------------------|
| A/NE-LT/315 | Proposed House (New Territories Exempted House - Small House) | 24/9/2004 | R1, R2 |
| A/NE-LT/512 | Proposed House (New Territories Exempted House - Small House) | 8/8/2014 | R3 – R5 |
| A/NE-LT/546 | Proposed House (New Territories Exempted House – Small House) | 15/1/2016 (on review) | R3, R6 – R8 |
| A/NE-LT/572 | Proposed House (New Territories Exempted House - Small House) | 10/6/2016 | R3, R9, R10 |
| A/NE-LT/573 | Proposed House (New Territories Exempted House - Small House) | 10/6/2016 | R3, R9, R10 |

Rejection 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 the New Territories in that the application site was not able to be connected to existing or planned sewerage system in the area. There was no information in the submission to demonstrate that the proposed development located within the water gathering grounds would not cause adverse impact on water quality in the area.
- R2. The application site fell outside both the village ‘environs’ (‘VE’) and the “Village Type Development” (“V”) zone. Development of NTEH/Small House outside both the ‘VE’ and the “V” zone would normally not be approved unless under very exceptional circumstances. There was insufficient information in the submission to warrant the approval of this application under exceptional circumstances.

- R3. The proposed development was not in line with the planning intention of the “AGR” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation, 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 for Consideration of Application for New Territories Exempted House/Small House in the New Territories” in that more than 50% of the footprint of the proposed Small House fell outside both “V” zone and the ‘VE’ of any recognized village.
- R5. The proposed development was located within the Water Gathering Ground. The applicant failed to demonstrate that the proposed development could be connected to the planned sewerage system and would not create adverse impact on the water quality in the area.
- R6. The proposed development did not comply with the Interim Criteria for consideration of application for NTEH/Small House in the New Territories in that more than 50% of the footprint of the proposed Small House fell outside the “V” zone and the ‘VE’ of San Tong Village and there is no general shortage of land in meeting the demand for Small House development in the “V” zone of San Tong.
- R7. The proposed development did not comply with the Interim Criteria for consideration of application for NTEH/Small House in New Territories in that the applicant failed to demonstrate that the proposed development located within water gathering grounds would not cause adverse impact on the water quality of the area.
- R8. Land was still available within the “V” zone of San Tong which is primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services.
- R9. The proposed development did not comply with the Interim Criteria for consideration of application for NTEH/Small House in New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Chuen Shui Tseng and the applicant failed to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the planned sewerage system and would not cause adverse impact on the water quality in the area.
- R10. Land was still available within the “V” zone of Chuen Shui Tseng which was primarily intended for Small House development. It was considered more appropriate

to concentrate the proposed Small House development close to the existing village cluster for more orderly development pattern, efficient use of land and provision of infrastructure and services.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) no objection to the application;
- (b) the applicant claimed to be an indigenous villager (IV) of Chuen Shui Tseng, Tai Po. However, the eligibility of Small House grant has yet to be ascertained;
- (c) the Site is a piece of Government land. Some existing plants might be affected;
- (d) the Site falls within the village ‘environs’ (‘VE’) of Chuen Shui Tseng;
- (e) the number of outstanding Small House applications and the number of 10-year Small House demand for Chuen Shui Tseng are as follows; and

| <u>Village</u> | <u>No. of outstanding Small House applications</u> | <u>No. of 10-year Small House demand*</u> |
|------------------|--|---|
| Chuen Shui Tseng | 13 | - |

- (f) if and after planning approval has been granted 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.

(*The figure of 10-year Small House demand has not been provided by the Indigenous Inhabitant Representative of Chuen Shui Tseng.)

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 “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;

- (b) notwithstanding the above, the application only involves development of a Small House and he considers that it can be tolerated unless it is rejected on other grounds; and
- (c) the existing footpath 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):

the Site falls within "AGR" zone and is within water gathering ground (WGG). The applicant has proposed to connect the proposed Small House to the existing public sewerage at Chuen Shui Tseng Village. The Site is at approximately 40m away from the public sewer manhole. Provided that the applicant can obtain consent from the adjacent lot owners for laying sewer pipes, sewer connection is feasible and capacity is available. Therefore, 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 consent(s) can be obtained from the adjacent lot owner(s) for laying and maintaining sewage pipes across the adjacent lot(s);
- (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.

4. **Landscape**

Comments of 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 falls within an area zoned "AGR". Village houses are concentrated at the north, while vacant land and active farmland are found at the east, south and west of the Site;
- (c) based on the aerial photos taken in 2017, the Site is situated in an area of rural landscape character comprising of scattered tree groups, village houses, vacant land and farmland. Although the proposed use is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;

- (d) part of the Site is covered with grasses and part is active farmland. No tree is found within the Site. Adverse impact on landscape resources from the proposed development is not anticipated. Although the approval of the application is likely to encourage more small house developments within the “AGR” zone, with a number of similar applications adjacent to the subject site being recently approved, the landscape character of the area is expected to be gradually altered, and the proposed small house is considered not incompatible with the surrounding landscape character; and
- (e) since the footprint of the proposed house covers most of the Site, there is very limited space for landscaping within the Site. Should the application be approved, approval condition on submission and implementation of landscape proposal is not recommended.

5. **Drainage**

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) 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 area;
- (c) there is no public drain maintained by DSD in the vicinity of the Site. The proposed Small House 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. The proposed development is located on unpaved ground and will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such system properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicant should design the drainage proposal based on actual site condition for DSD’s comment/agreement. DSD would not assist 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;
- (e) upon completion of the sewerage connection, an on-site technical audit will be carried out by DSD. The applicant should submit the application for technical audit, the approved sewerage drainage plan and the technical audit fee to DSD at least 2 weeks before the technical audit;

- (f) the drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
- (g) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD, Home Affairs Department and/or relevant private lot owners should be sought;
- (h) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (i) consideration should be given to adopt polyethylene (PE100) pipe for buried sewage pipe beyond the sewage terminal manhole; and
- (j) the lot owner/developer is advised that the limited desk-top checking by Government on the drainage proposal covers only the fundamental aspects of the drainage design which will by no means relieve his obligations to ensure that (i) the proposed drainage works will not cause any adverse drainage or environmental impacts in the vicinity; and (ii) the proposed drainage works and the downstream drainage systems have the adequate capacity and are in good conditions to receive the flows collected from his lot.

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

- no comment on the application as there is no drainage or sewerage project under DSD's control in Chuen Shui Tseng.

6. Agriculture

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

- does not support the application from the agricultural development point of view as there are active agricultural activities in the vicinity and the Site possesses potential for agricultural rehabilitation.

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 LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

8. Water Supply

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

- (a) no objection to the application;
- (b) the Site is located within upper indirect WGG. The proposed Small House footprint is within the 'VE' of Chuen Shui Tseng. DEP advised that the Site is able to be connected to the public sewerage system in the area. Thus, compliance of the application with Criterion (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 could 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) an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass shall be submitted to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed NTEH/Small House to the sewerage system via relevant private lot.
- (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.

9. Electrical and Mechanical Services

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

- (a) no particular comment on the application from electricity supply safety aspect; and
- (b) in the interest 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 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 vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) 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 records, the total number of outstanding Small House applications for Chuen Shui Tseng is 13 while there is no 10-year Small House demand forecast. Based on the latest estimate by Planning Department, about 0.87 ha (or equivalent to about 34 Small House sites) of land are available within the "V" zones. Therefore, there is no general shortage of land within "V" zone to meet the future Small House demand (about 0.33 ha or equivalent to about 13 Small Houses).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Office/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 Commissioner for Transport (C for T) that the existing footpath 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;
- (c) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) written consent(s) should be obtained from the adjacent lot owner(s) for laying and maintaining sewage pipes along the adjacent lot(s);
 - (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;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no public drain maintained by DSD in the vicinity of the Site. The proposed Small House 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. The proposed development is located on unpaved ground and will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such system properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the system;
 - (ii) the applicant should design the drainage proposal based on actual site condition for DSD's comment/agreement. DSD would not assist 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) upon completion of the sewerage connection, an on-site technical audit will be carried out by DSD. The applicant should submit the application for technical audit, the approved sewerage drainage plan and the technical audit fee to DSD at least 2 weeks before the technical audit;
 - (iv) the drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
 - (v) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD, Home Affairs Department and/or relevant private lot owners should be sought;
 - (vi) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
 - (vii) consideration should be given to adopt polyethylene (PE100) pipe for buried sewage pipe beyond the sewage terminal manhole; and
 - (viii) the lot owner/developer is advised that the limited desk-top checking by Government on the drainage proposal covers only the fundamental aspects of the drainage design which will by no means relieve his obligations to ensure that (i) the proposed drainage works will not cause any adverse drainage or environmental impacts in the vicinity; and (ii) the proposed drainage works and the downstream drainage systems have the adequate capacity and are in good conditions to receive the flows collected from his lot;
- (e) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
- (i) an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass shall be submitted to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed NTEH/Small House to the 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;

- (f) 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;
- (g) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that the parties concerned with planning, designing, organising 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 vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) 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 the 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.