

**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 for Proposed House  
(New Territories Exempted House - Small House)  
within the same "AGR" zone in the vicinity of the Site on the  
Lam Tsuen Outline Zoning Plan**

**Approved Applications**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-LT/333	Proposed House (New Territories Exempted House - Small House)	22/7/2005 (on Review)	A1-A4
A/NE-LT/386	Proposed House (New Territories Exempted House - Small House)	1/8/2008	A1,A2,A4-A6
A/NE-LT/580	Proposed House (New Territories Exempted House - Small House)	15/7/2016	A2,A4,A6

**Approval Conditions**

- A1. The submission and implementation of landscaping proposal to the satisfaction of the Director of Planning or of the Town Planning Board.
- A2. The submission and implementation of drainage facilities/proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.
- A3. The disposal of spoils during site formation and construction period to the satisfaction of the Director of Water Supplies or of the Town Planning Board.
- A4. 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.
- A5. The setting back of the proposed Small House from an area shown as 'Road' on the OZP to the satisfaction of the Director of Planning or of the Town Planning Board.
- A6. The provision of protective 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**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reason(s)</b>
A/NE-LT/525	Proposed House (New Territories Exempted House - Small House)	27/2/2015	R1-R3
A/NE-LT/527	Proposed House (New Territories Exempted House - Small House)	27/2/2015	R1-R3
A/NE-LT/592	Proposed House (New Territories Exempted House - Small House)	11/11/2016	R1,R4,R5
A/NE-LT/621	Proposed House (New Territories Exempted House - Small House)	22/12/2017	R1,R5,R6

**Rejection Reasons**

- R1. The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone, which was primary 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 for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention.
- R2. The proposed development did not comply with the Interim Criteria for consideration of application for New Territories Exempted House/Small House in New Territories in that the proposed development within the upper indirect water gathering ground would not be able to be connected to the existing or planned sewerage system and would cause adverse landscape and water quality impacts on the surrounding areas. There was still land available within the “Village Type Development” (“V”) zone of Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai for the proposed development.
- R3. The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impact of approving such applications would result in a general degradation of the environment of the area.
- R4. The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in 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 or planned sewerage system and would not cause adverse impact on the water quality in the area.
- R5. Land was still available within the “V” zones of Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai which are primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small

House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

- R6. The proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that it would cause adverse landscape impact on the surrounding areas.

**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 of Chung Uk Tsuen. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the application site (the Site) falls within the village 'environs' of Chung Uk Tsuen. The Site is an Old Schedule Lot held under the Block Government Lease and is not covered by any Modification of Tenancy or Building Licence. The applicant is the registered owner of the subject lot. The Small House application has been received by LandsD;
- (d) 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>
Chung Uk Tsuen	13	250
San Uk Tsai	5	43
Tong Min Tsuen	7	110
Fong Ma Po	3	28
Total	28	431

(\*The figures were estimated and provided by the IIR of Chung Uk Tsuen and San Uk Tsai in 2017, Tong Min Tsuen in 2016 and Fong Ma Po in 2015. The information so obtained is not verified in any way by LandsD.)

- (e) 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 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 also no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto; and
- (f) the proposed septic tanks falls within the subject lot. Whether it is acceptable or not will be considered when the case is due for processing by LandsD.

## 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 with 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;
- (b) 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
- (c) separately, 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 is wholly within “Agriculture” (“AGR”) zone, and is within water gathering ground (WGG). There is neither existing nor planned public sewerage in close vicinity of the Site. The applicant proposed the use of septic tank and soakaway system to treat wastewater. He does not support the application in view of the following concerns:
  - (a) the Site is completed outside the “V” zone and is within WGG. No public sewerage will be available in the near future to serve the proposed Small House; and
  - (b) according to chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG), the proposed use of a septic tank and soakaway system to treat wastewater is unacceptable inside WGG.

## 4. **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 perspective;
- (b) the Site is located in Chung Uk Tsuen, Tai Po. The Site is bounded by Small Houses at the north within the “V” zone, with vacant vegetated land to the east, south and west of the Site. The Site is connected via a footpath to the village and Lam Kam Road at the north. The Site is not the subject of any previous application;

- (c) the Site is situated in an area of rural landscape character comprising of Small Houses, active farmland, scattered parking areas, scattered tree groups and woodland patches. Although the proposed use is not in line with the planning intention of the "AGR" zone, it is not incompatible to the surrounding environment;
- (d) the Site is vacant and covered with grasses and groundcovers. Two *Musa sp.* (蕉) are found but no tree is spotted within the Site. Although adverse impact on significant landscape resources from the proposed development is not anticipated, approval of the application would set an undesirable precedent to similar development within the "AGR" zone. The cumulative effect of approving such applications would result in degradation of the environment; and
- (e) should the application be approved by the Board, approval condition on submission and implementation of landscape proposal is recommended.

## 5. Drainage and Sewerage

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

- (a) no objection to the application from public drainage point of view;
- (b) should the application be approved, an approval condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board to ensure it will not cause adverse 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 Site is located on the unpaved ground. The proposed development will increase the impervious area, resulting in a change of the flow pattern and an increase the surface runoff and thus the 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 systems 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 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 ensure 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; and

- (e) there is no public sewer connection available in the vicinity of the proposed development, views and comments from the DEP should be sought regarding the sewage disposal arrangement of the proposed development.

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

- since DSD's project 4332DS – Lam Tsuen Valley Sewerage was substantially completed, he has no comment on the application from project interface point of view.

6. **Agriculture**

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

- the Site and its vicinity are overgrown with grass and shrubs. Nevertheless, agricultural infrastructure such as footpath is available and the Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

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 information in the application to indicate that the proposed Small House could be connected to the public sewerage system in the area. The applicant proposed to adopt a septic tank system for foul water disposal and the wastewater generated from the proposed Small House will have the potential to cause water pollution to the WGG. It is thus considered that compliance with the item B(i) of "Interim Criteria for Consideration of Applications for New Territories Exempted House/Small House in New Territories" cannot be established.

**9. Electricity and Town Gas Safety**

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

Electricity Safety

- (a) no comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier 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 or in the vicinity of the Site. The applicant should also be reminded to observe the “Code of Practice on Working near Electricity Supply Lines” established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of the electricity supply lines;

Town Gas Safety

- (b) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in close vicinity of the Site;
- (c) the applicant/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
- (d) the applicant/consultant/works contractor is required to observe the requirements of the Electrical and Mechanical Services Department’s “Code of Practice on Avoiding Danger from Gas Pipes”.

**10. Demand and Supply of Small House Site**

According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai is 28 while the 10-year Small House demand forecast provided by the IIR is 431. Based on the latest estimate by Planning Department, about 3.61 ha (or equivalent to about 144 Small House sites) of land are available within the “V” zone. Therefore, the land available cannot fully meet the future Small House demand (about 11.48 ha or equivalent to about 459 Small Houses).

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A/NE-LT/631 DD 19 Chung Uk Village  
24/01/2018 01:54

5-1

From: [REDACTED]  
To: tpbpd <tpbpd@pland.gov.hk>  
FileRef:

A/NE-LT/631  
Lot 748 S.A in D.D. 19, Chung Uk Village, Lam Tsuen, Tai Po  
Site area : 195m<sup>2</sup>  
Zoning : "Agriculture"  
Applied Development: NET House

Dear TPB Members,

The proposed development is not in line with the planning intention of the "Agriculture" zone which is primary to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention;

The Director of Audit has strongly criticized the prevalence of random developments with septic tanks. Moreover on 11 November 2016 TPB rejected a similar application No 592 on the following grounds:

- "(a) the proposed development is not in line with the planning intention of the "Agriculture" zone which is primary to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the applicant fails to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
- (c) land is still available within the "Village Type Development" ("V") zones of Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai which are primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services."

There can be no change in circumstances in such a short period so TPB should also reject this application.

Mary Mulvihill

**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 with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (c) 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 Site is located on the unpaved ground. The proposed development will increase the impervious area, resulting in a change of the flow pattern and an increase the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner should maintain such systems 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;
  - (ii) 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 ensure 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; and
  - (iii) there is no public sewer connection available in the vicinity of the proposed development, views and comments from the DEP should be sought regarding the sewage disposal arrangement of the proposed development;
- (d) 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 LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;

- (e) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that:

Electricity Safety

- (i) for 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 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 or in the vicinity of the Site. The applicant should observe the “Code of Practice on Working near Electricity Supply Lines” established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of the electricity supply lines;

Town Gas Safety

- (ii) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Site. No structure should be built over the gas pipeline and no building should be situated within 3m from the high pressure gas pipeline in accordance with recognized international standards;
- (iii) the applicant should liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
- (iv) the applicant should observe the requirements of the Electrical and Mechanical Services Department’s “Code of Practice on Avoiding Danger from Gas Pipes”; and
- (f) 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.