

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 for
Proposed House (New Territories Exempted House - Small House) at the Site

Approved Application

Nil

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-LT/521	Proposed House (New Territories Exempted House - Small House)	12.12.2014	R1 – R4
A/NE-LT/556	Proposed House (New Territories Exempted House - Small House)	18.12.2015	R1, R2, R5

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “Agriculture” (“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 for cultivation and other agricultural purposes. There was no strong planning justification in the current 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 the New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone.
- R3. There was land available within the “V” zone for Small House development. The applicants failed to demonstrate in the submission why suitable site within areas zoned “V” could not be made available for the proposed development.
- R4. The applicant failed to demonstrate that the proposed Small House located within Water Gathering Ground would be able to be connected to the existing or planned sewerage system and would not have adverse impact on the water quality in the area.
- R5. Land was still available within the “V” zone of Lam Tsuen San Tsuen which is 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.

**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/280	Proposed House (New Territories Exempted House – Small House)	21.2.2003	A1 - A5
A/NE-LT/296	Proposed House (New Territories Exempted House – Small House)	29.8.2003	A1 - A5
A/NE-LT/335	Proposed House (New Territories Exempted House – Small House)	9.10.2009	A1 - A5
A/NE-LT/429	Proposed House (New Territories Exempted House – Small House)	6.12.2011	A1 - A5
A/NE-LT/478	Proposed House (New Territories Exempted House – Small House)	11.10.2013	A1, A2, A4, A5
A/NE-LT/479	Proposed House (New Territories Exempted House – Small House)	11.10.2013	A1, A2, A4, A5
A/NE-LT/480	Proposed House (New Territories Exempted House – Small House)	11.10.2013	A1, A2, A4, A5
A/NE-LT/481	Proposed House (New Territories Exempted House – Small House)	11.10.2013	A1, A2, A4, A5
A/NE-LT/482	Proposed House (New Territories Exempted House – Small House)	11.10.2013	A1, A2, A4, A5

Approval Conditions

- A1. The submission and implementation of landscape and/or tree preservation proposal to the satisfaction of the Director of Planning or of the TPB.
- A2. The submission and implementation of drainage proposal/provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB.
- A3. The provision/submission & implementation of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.
- 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 TPB.

- A5. 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 TPB.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-LT/287	Proposed House (New Territories Exempted House – Small House)	31.10.2003 (Review)	R1, R2
A/NE-LT/505	Proposed House (New Territories Exempted House – Small House)	24.10.2014 (Review)	R1 - R4
A/NE-LT/522	Proposed House (New Territories Exempted House - Small House)	12.12.2014	R1 - R4
A/NE-LT/557	Proposed House (New Territories Exempted House - Small House)	18.12.2015	R1, R3, R5
A/NE-LT/604	Proposed House (New Territories Exempted House – Small House)	28.4.2017	R1, R5

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “Agriculture” (“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 for cultivation and other agricultural purposes. There was no strong planning justification in the current 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 the New Territories in that it was not able to be connected to existing or planned sewerage system in the area. The applicant also 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.
- R3. 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 there was no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone.
- R4. There was land available within the “V” zone for Small House development. The applicants failed to demonstrate in the submission why suitable site within areas zoned “V” could not be made available for the proposed development.
- R5. Land was still available within the “V” zones of Lam Tsuen San Tsuen and San Tsuen Lo Wai 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.

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 Sheung Wun Yiu. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is held under Block Government Lease demised for agricultural use. The applicant is the registered owner of the subject lot and the Small House application has been received by LandsD;
- (d) more than 50% of the proposed Small House falls within the village 'environs' ('VE') of San Tsuen Lo Wai and Lam Tsuen San Tsuen 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>
Lam Tsuen San Tsuen	39	100*

(*The figure of 10-year Small House demand was provided by the IIR of Lam Tsuen San Tsuen in 2017 and the information so obtained is not verified 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 proposed sewerage connection will be considered when the application is due for processing; and
- (h) the Small House application (including the design of the Small House) will be considered only after the planning application is approved by the Town Planning Board (the Board).

2. Traffic

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

- has no in-principle objection to the application from traffic engineering point of view.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within the “Village Type Development” (“V”) and “Agriculture” (“AGR”) zones, and is within WGG. The applicant has proposed to connect the proposed Small House to the existing public sewerage at Tong Min Tsuen. The Site is approximately 55m away from the public sewer manhole. The applicant should note that there is a local high point between the Site and the existing manhole to be connected. Provided that the applicant can ensure that the sewer connection can overcome the level difference, and can obtain consent from the adjacent lot owners for laying and maintaining sewage pipes, sewer connection is feasible and capacity is available. Therefore, he has no objection to the application on the conditions that:
 - (i) the proposed Small House will be connected to the public sewer for sewage disposal;
 - (ii) written consent can be obtained from the adjacent lot owner for laying and maintaining sewage pipes;
 - (iii) adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer; and
 - (iv) the cost of sewer connection will be borne by the applicant; and
- (b) it is the responsibility of the applicant to ensure the proposed sewer connection, including both laying and maintenance of the proposed sewer pipes, will be in compliance with relevant technical and legal requirements. These include relevant submissions to Drainage Services Department under the prevailing mechanism, obtaining written consent(s) from relevant lot owner(s) for laying and maintaining sewer pipes, etc.

4. Landscape

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

- (a) no objection to the application from the landscape planning point of view;
- (b) village houses are found concentrated within the “V” zone at the east and south of the Site. The Site is connected with Lam Kam Road from the east;
- (c) based on the latest aerial photo, the Site is situated in an area of rural

landscape character comprising of scattered tree groups, village houses, farmland and vacant land. The proposed development is not incompatible with the surrounding environment;

- (d) according to recent site visit, the Site is a piece of fallow farmland covered with weeds and groundcovers. No trees are found within the Site. Adverse impact on significant landscape resources from the proposed development is not anticipated; and
- (e) should the application be approved by the Board, approval condition on the 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 in principle to the application from public drainage point of view;
- (b) should the application be approved by the Board, an approval condition should be included to request the applicant to submit and implement drainage proposal for the Site to the satisfaction of the Director of Drainage Services or the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no 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 other areas surrounding of the Site. The proposed development is located on unpaved ground. It will increase impervious area, resulting in a change of the flow pattern and increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account in preparing the drainage proposal. The applicant/owner is 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 actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer on the drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seeks 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) the Site is within an area where connections to existing sewerage networks are available in the vicinity. Should the applicant choose to

connect his drainage systems to DSD's networks, the applicant should submit the connection proposal for DSD's agreement; and

- (f) the applicant is required to rectify/modify the sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system.

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

- has no comment on the application as there is no active drainage or sewerage project at the Site that is under the control of Project Management Division of DSD.

6. **Agriculture**

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

- the Site is vacant. Nevertheless, agricultural infrastructure such as road access and water supply 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) no objection to the application;
- (b) the Site is located within upper indirect WGG and is more than 30m away from the nearest stream. About 56% of the Site falls within the 'VE'/'V' zone of Lam Tsuen San Tsuen. More than 50% of the proposed Small House footprint falls within the 'VE' of Lam Tsuen San Tsuen; The applicant proposed to connect the proposed Small House to public sewer and sewer connection is feasible. Thus, compliance of the application with item B(a) of the 'Interim Criteria for Consideration of Applications for NTEH/Small House

in New Territories' can be reasonably established;

- (c) DEP indicated that the Site is able to connect to the public sewerage system in the area and required that the applicant shall connect the proposed Small House 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 sewerage system via the relevant private lots; 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.

9. Electricity Supply

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

Electricity Safety

- (a) no comment on the application from electricity supply safety aspect;
- (b) 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

- (c) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Site;

- (d) 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
- (e) 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 Sites

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Lam Tsuen San Tsuen is 39 while the 10-year Small House demand forecast for the villages concerned is 100. Based on the latest estimate by Planning Department, about 2.64 ha (or equivalent to about 105 Small House sites) of land are available within the "V" zone of the concerned villages. Therefore, the land available cannot fully meet the future Small House demand of about 3.48 ha (or equivalent to about 139 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) 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; and
 - (ii) the proposed sewerage connection will be considered when the application is due for processing;
- (b) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) the proposed Small House should be connected to the public sewer for sewage disposal;
 - (ii) there is a local high point between the Site and the existing public sewer manhole to be connected. The applicant should ensure that such a level difference could be overcome;
 - (iii) written consent should be obtained from the adjacent lot owner for laying and maintaining sewage pipes;
 - (iv) adequate land space within the Site should be reserved for connection of the proposed Small House to the public sewer; and
 - (v) 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) 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 other areas surrounding of the Site. The Site is located on the unpaved ground. The proposed development will increase impervious area, resulting in a change of the flow pattern and increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account in preparing the drainage proposal. The applicant/owner is 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;
 - (ii) the applicant should design the drainage proposal based on actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer on the drainage proposal. In the design, the applicant should consider the

workability, the impact to the surrounding environment and seeks 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) the Site is within an area where connections to existing sewerage networks are available in the vicinity. Should the applicant choose to connect his drainage systems to DSD's networks, the applicant should submit the connection proposal for DSD's agreement; and
 - (iv) the applicant should rectify/modify the sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system;
- (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 sewerage system via the relevant private lots; 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 should resolve any land matter (such as private lots) associated with the provision of water supply and should 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:

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;
 - (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
- (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.