

**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 Application Site**

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejected Reasons
A/NE-LT/571	Proposed House (New Territories Exempted House – Small House)	24.6.2016	R1-R3
A/NE-LT/618	Proposed House (New Territories Exempted House – Small House)	2.2.2018 (review)	R1-R3

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “Agriculture” zone which was 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.
- 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 there was no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom.
- R3. Land was still available within the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom which was 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.

**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/344	Proposed House (New Territories Exempted House - Small House)	25.11.2005	A1-A4
A/NE-LT/345	Proposed House (New Territories Exempted House - Small House)	25.11.2005	A1-A4
A/NE-LT/346	Proposed House (New Territories Exempted House - Small House)	17.3.2006	A1,A2,A4,A5
A/NE-LT/489	Proposed House (New Territories Exempted House - Small House)	13.12.2013	A1,A3,A4,A6
A/NE-LT/635	Proposed House (New Territories Exempted House - Small House)	18.5.2018	A1-A4

Approval Conditions

- A1. The submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board.
- A2. The submission and 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 design, construction and maintenance of the sewerage facilities and the future connection of the sewerage system to public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board.
- A6. The provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-LT/413	New Territories Exempted House (Small House)	9.9.2011 (Review)	R1-R3
A/NE-LT/570	New Territories Exempted House (Small House)	27.5.2016	R3- R5
A/NE-LT/578	New Territories Exempted House (Small House)	24.6.2016	R3, R5, R6
A/NE-LT/623	New Territories Exempted House (Small House)	8.6.2018 (Review)	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” in that there was no shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Sheung Tin Liu Ha, Ha Tin Liu Ha and Ko Tin Hom.
- R2. Small Houses should be developed within the “V” zone so as to concentrate village type development for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- R3. 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, 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 New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom 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.
- R5. Land was still available within the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom which was 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 New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House

development in the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom. The proposed development would cause adverse landscape impact on the surrounding area 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 adversely affect the water quality in the area.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) no objection to the application;
- (b) the applicant claimed himself as an indigenous villager (IV) of Tin Liu Ha. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is an Old Schedule Lot 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) the Site falls within the village 'environs' ('VE') of Ha Tin Liu Ha and is not covered by 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>
Tin Liu Ha	8	130*
Ko Tin Hom	0	-

(*The figure of 10-year Small House demand was provided by the IIR of Tin Liu Ha in 2015 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; and
- (g) the proposed development including its sewerage connection proposal will be considered when the case is due for processing.

2. Traffic

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

- (a) has no in-principle objection to the application from traffic engineering point of view; and

- (b) the road/footpath next to the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the road and footpath should be clarified with relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within "AGR" and "V" zones, and is within WGG. The applicant proposed to connect the proposed Small House to the public sewerage at Ha Tin Liu Ha Tsuen. Sewer capacity is available. Therefore, he has no objection to the application on the conditions that:
- the proposed Small House will be connected to the public sewer for sewage disposal;
 - written consents can be obtained from the adjacent lot owners for laying and maintaining sewage pipes, if required;
 - adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer;
 - the cost of sewer connection will be borne by the applicant; and
- (b) the Site falls within the Consultation Zone of Tai Po Water Treatment Works. Based on the information provided, he has no objection from chlorine risk point of view.

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) the Site is situated in an area of rural landscape character comprising of scattered tree groups, abandoned farmland and village houses. Although the proposed house is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) the Site is vacant and covers with gravel and groundcovers. No existing tree is recorded within the Site. Adverse impact on landscape resources is not anticipated; and
- (d) since the footprint of the proposed house covers most of the Site, there is inadequate space for landscaping within the Site. Should the application be approved by the Board, the standard condition on submission and implementation of landscaping proposal is not recommended.

5. Drainage and Sewerage

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

- (a) no in-principle objection to the application from public drainage point of view;
- (b) if the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) the Site is within an area where connections to existing sewerage networks are available in the vicinity;
- (d) 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 the Site. The proposed development is located on the 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 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;
- (e) the applicant should design the drainage proposal based on the actual site condition 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 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; and
- (f) should the applicant choose to connect his proposed drainage systems to DSD's networks, he shall furnish his connection proposal to DSD for agreement.

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

- no comment on the application as there is no active drainage or sewerage project at the Site.

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, agricultural

infrastructure such as road access and water source is available, 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 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) the Site is located within upper indirect WGG and is more than 30m away from the nearest stream. The proposed Small House footprint is entirely within the 'VE' of Ha Tin Liu Ha. The applicant proposed to connect the proposed Small House to public sewer. Thus, compliance of the application with items B(a) and B(i) of the 'Interim Criteria for Consideration of Applications for NTEH/Small House in New Territories' can be reasonably established;
- (b) DEP advises that the Site is able to be connected to the public sewerage system in the area and requires the applicant shall connect the proposed house with public sewer 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
- (c) 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. **Demand and Supply of Small House Sites**

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for She Shan is 8 while the 10-year Small House demand forecast for the same village is 130. Based on the latest estimate by the Planning Department, about 3.4 ha (or equivalent to about 136 Small House sites) of land are available within the "V" zone. Therefore, the land available cannot fully meet the future Small House demand (about 3.45 ha or equivalent to about 138 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 road/footpath next to the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the road and footpath 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 Director of Environmental Protection (DEP) that:
 - (i) the proposed Small House should be connected to the public sewer for sewage disposal;
 - (ii) written consents should be obtained from the adjacent lot owners for laying and maintaining sewage pipes, if required;
 - (iii) adequate land space within the Site should be reserved for connection of the proposed Small House to the public sewer; and
 - (iv) the cost of sewer connection should be borne by the applicant;
- (d) to note the comments of the Chief Engineer/Mainland North of 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 the Site. The proposed development is located on the 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 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 site condition 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 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; and

- (iii) should the applicant choose to connect his proposed drainage systems to DSD's networks, he shall furnish his connection proposal to DSD for agreement.
- (e) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
- (i) the applicant should 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;
- (f) to note the comments of the Director of Fire Services that 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;
- (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.