

Relevant Revised Interim Criteria for Consideration of
Application for NTEH/Small House in New Territories
(promulgated on 7.9.2007)

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development^);
- (j) the provision of fire service installations and emergency vehicular access, if required,

should be appropriate with the scale of the development and in compliance with relevant standards; and

- (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.

^i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Similar s.16 applications in the vicinity of the Sites
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/359	Proposed House (New Territories Exempted House - Small House)	19/5/2006	A1 – A5
A/NE-LT/367	Proposed House (New Territories Exempted House - Small House)	2/2/2007	A1,A2,A4 – A6
A/NE-LT/447	Proposed House (New Territories Exempted House - Small House)	24/2/2012	A1,A2,A4 – A6
A/NE-LT/537	Proposed House (New Territories Exempted House - Small House)	9/10/2015	A1,A2,A4,A5

Approval Conditions

- A1. The submission and implementation of landscaping proposals
- A2. The submission and implementation of drainage facilities/proposal
- A3. The provision of an emergency vehicular access or the incorporation of residential sprinkler system and a street fire hydrant
- A4. The connection of the foul water drainage system to public sewers
- A5. The provision of protective measures to ensure no siltation occurred or no pollution to the water gathering grounds
- A6. The provision of fire-fighting access, fire-fighting water supplies and fire service installations

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-LT/265	Proposed Two Houses (New Territories Exempted House - Small House)	7/9/2001	R1 – R3
A/NE-LT/277	Proposed House (New Territories Exempted House - Small House)	22/11/2002	R4
A/NE-LT/293	Proposed House (New Territories Exempted House - Small House)	25/7/2003	R4
A/NE-LT/351	Proposed Six Houses (New Territories Exempted House - Small House)	23/12/2005	R5,R6
A/NE-LT/416	Proposed Two Houses (New Territories Exempted House - Small House)	11/11/2011 (Review)	R7,R8

Rejection Reasons

- R1. The proposed development 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 applications for New Territories Exempted House/Small House development in the New Territories in that only a small portion of proposed development falls within the village ‘environs’ and the application site falls outside the “Village Type Development” zone. Village development should be sited close to the village proper to ensure orderly development and provision of facilities.
- R3. There was insufficient information in the submission to demonstrate that the proposed Small Houses would not have adverse environmental and drainage impacts.
- R4. The proposed development did not comply with the interim criteria for assessing application for NTEH/Small House in the New Territories in that it 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.
- R5. The application site partly encroached upon the works limit for the proposed river improvement works at She Shan River under Drainage Services Department's “Drainage Improvement Works in Tai Po”. The approval of the application would jeopardize the river improvement project
- R6. The proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that the proposed development and the soakaway pit were not able to be connected to existing or planned sewerage system in the area. There was insufficient information in the

submission to demonstrate that the proposed development located within the water gathering grounds would not cause adverse impact on the water quality in the area.

- R7. 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention.

- R8. The natural vegetation on site served as part of the green buffer separating the agricultural area and village houses area. The approval of the application would disintegrate this buffer area and set an undesirable precedent for similar applications for housing developments within the subject “AGR” zone. The cumulative impact of approving such applications would adversely affect the existing pleasant rural landscape quality of 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 applications;
- (b) the applicants are indigenous villagers of Hang Ha Po as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village. However, their eligibility of Small House grant has not been ascertained;
- (c) the number of outstanding Small House applications and the number of 10-year Small House demand for the concerned villages are as follows:

<u>Villages</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Hang Ha Po	23	150
San Uk Pai	3	Nil
Kau Liu Ha	10	28

(*The figures of 10-year Small House demand were provided by the IIRs of the concerned villages and the information so obtained is not verified by LandsD. No information on 10-year Small House demand is provided by the IIR of San Uk Pai.)

- (d) the Sites are held under Block Government Lease demised for agricultural use;
- (e) the Sites are not covered by any Modification of Tenancy or Building Licence. The Small House applications for the Sites were submitted to LandsD on 28.7.2017;
- (f) the Sites fall outside the village 'environs' of any recognized village;
- (g) should the applications be approved by the Town Planning Board (the Board), LandsD will process the Small House applications. However, there is no guarantee at this stage that the Small House applications would be approved. Should the Small House applications be approved by LandsD acting in the capacity as landlord as its sole discretion, such approvals 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 Houses concerned or approval of the emergency vehicular access thereto;

2. **Traffic**

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

- (a) no in-principle objection to the applications from traffic engineering point of view; and
- (b) the road/footpath next to the Sites 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.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) the Sites are within the "Agriculture" ("AGR") and "Village Type Development" ("V") zones and within the WGG. The Sites fall within the consultation zone of Tai Po and Tai Po Tau Water Treatment Works. Based on the information provided, he has no objection to the applications from chlorine risk point of view;
- (b) it is noted that the applicants propose to connect the proposed Small Houses to public sewer manhole (FMH1040212). He has no objection to the applications on the conditions that:
 - (i) the proposed Small Houses will be connected to the public sewer for sewage disposal;
 - (ii) adequate land space within the Sites should be reserved for connection of the proposed Small Houses to the public sewer;
 - (iii) written consents should be obtained from the adjacent lot owner(s) for laying and maintaining sewage pipes if needed; and
 - (iv) the cost of sewer connection will be borne by the applicants; and
- (c) the Sites are in close proximity to water courses to the north and east. The applicants are reminded to follow '*Professional Persons Environmental Consultative Committee Practice Note (ProPECCPN) 1/94 Construction Site Drainage*' to properly handle and dispose of site discharge during construction phase.

4. **Landscape**

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

- (a) no objection to the applications from the landscape planning perspective;
- (b) the Sites are situated in an area of rural landscape character comprising of scattered tree groups, village houses and abandoned farmlands. Given similar

Small Houses are found in close proximity to the Sites, the applications are not incompatible with the surrounding environment;

- (c) the Sites are vacant with piles of construction materials. No existing tree is found within the Sites. Adverse impact arising from the proposed developments on significant landscape resources within the Sites are not anticipated; and
- (d) since there is not adequate space for meaningful landscaping within the Sites to benefit the public realm, should the applications be approved by the Board, the condition for 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) does not support the applications from public drainage viewpoint as the proposed Small Houses located too close to an existing stream course with the proposed Small House footprints less than 3m from the stream course and might be eroded and flooded. There might be flooding susceptibility of the adjoining areas affected by the proposed developments;
- (b) should the applications be approved by the Board, a condition should be included requesting the applicants to submit and implement the drainage proposal for the Sites to the satisfaction of Director of Drainage Services or the Board to ensure that they will not cause adverse drainage impact to the adjacent area;
- (c) there is no public drain maintained by DSD in the vicinity of the Sites. The proposed Small Houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Sites and overland flow from other areas surrounding the Sites. The applicants/owners are required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants/owners 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 applicants should design the drainage proposals based on the actual site conditions for DSD's comment/agreement. DSD would not assist on the drainage proposals. In the design, the applicants should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. The applicants 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
- (e) the Sites are within an area where connections to existing sewerage networks are available in the vicinity. Should the applicants choose to connect their proposed drainage systems to DSD's networks, the applicants shall furnish DSD with their connection proposals for agreement.

6. Agriculture

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

- (a) no strong view on the applications; and
- (b) the Sites are covered with some trees and surrounded by existing structures and the potential for agricultural rehabilitation is low.

7. Fire Safety

Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the applications; and
- (b) the applicants are 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 the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the applications;
- (b) the Sites are located within upper indirect WGG and are less than 30m away from the nearest watercourse;
- (c) DEP indicated that the Sites are able to be connected to the public sewerage system in the area. It is noted that DEP has no objection to the applications provided that the applicants shall connect the proposed Small Houses with public sewer for sewage disposal. Thus, compliance of the application with the "Interim Criteria for Consideration of Application for NTEH/Small House in New Territories" can be reasonably established. He supports DEP's view by imposing the following conditions:
 - (i) the foul water drainage system of the proposed Small Houses can be connected to the public sewerage system in the area and the applicants 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;
 - (iii) the applicants 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 Houses to the sewerage system via relevant private lot;

- (iv) since the proposed Small Houses are less than 30m from the nearest watercourse, they should be located as far away from the watercourse as possible; and
- (v) the whole of foul effluent shall be conveyed through cast iron pipes or other approved material with sealed joints and hatchboxes; and
- (d) for provision of water supply to the proposed developments, the applicants may need to extend the inside services to the nearest suitable government water mains for connection. The applicants 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 inside services within the private lots to WSD's standards.

9. Electricity Supply and Town Gas Safety

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

Electricity Safety

- (a) no comment on the applications 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, organizing and supervising any activity near the underground cable or overhead line under the applications should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Sites. 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;

Town Gas Safety

- (c) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Sites;
- (d) the applicants/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;
- (e) the applicants/consultant/works contractor are required to observe the requirements of the Electrical and Mechanical Services Department on the "Avoidance on Damage to Gas Pipes 2nd Edition"; and
- (f) regarding the public comment on town gas safety, the proposed developments are located at about 260m away from the Lam Kam Pigging station which is out of the hazardous zone of concern. Viewing that the proposed developments are small scale developments and would not result in a significant increase in

population in the vicinity of the Lam Kam Pigging station, it is considered that the proposed developments would not induce significant risk in this case.

10. Demand and Supply of Small House Sites

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Hang Ha Po, San Uk Pai and Kau Liu Ha is 36 while the 10-year Small House demand forecast provided by the IIR is 178. Based on the latest estimate by Planning Department, about 3.89 ha (or equivalent to about 155 Small House sites) of land are available within the "V" zones. Therefore, the land available cannot fully meet the future Small House demand (about 5.36 ha or equivalent to about 214 Small Houses).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that 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. Should the Small House application be approved by LandsD acting in the capacity as landlord as its sole discretion, such approvals 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;
- (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 as the Site is in close proximity to water courses to the north and east, the applicants should follow '*Professional Persons Environmental Consultative Committee Practice Note (ProPECCPN) 1/94 Construction Site Drainage*' to properly handle and dispose of site discharge during construction phase;
- (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 Sites. 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 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 the 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 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) the Site is within an area where connections to existing sewerage networks are available in the vicinity. Should the applicant choose to connect his proposed drainage systems to DSD's networks, the applicant shall furnish DSD with his connection proposals for agreement;

- (e) 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 relevant private lot;
 - (ii) since the proposed Small House is less than 30m from the nearest watercourse, it should be located as far away from the watercourse as possible;
 - (iii) the whole of foul effluent shall be conveyed through cast iron pipes or other approved material with sealed joints and hatchboxes; and
 - (iv) for provision of water supply to the proposed 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 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 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:
- (i) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with the planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation (the *Regulation*) and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines; and
 - (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/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
 - (iv) the applicant/consultant/works contractor is required to observe the requirements of the Electrical and Mechanical Services Department on the

“Avoidance on Damage to Gas Pipes 2nd Edition”; and

- (h) 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.