

**Relevant 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) if 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

Rejected Application

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-LYT/559	Proposed House (New Territories Exempted House - Small House)	27.2.2015	R1 – R3

Rejection Reasons

- R1 The proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zone in the Lung Yeuk Tau and Kwan Tei South area which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets and there was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention.
- R2 Land was still available within the “Village Type Development” (“V”) zone of Ma Mei Ha for Small House development. It was considered more appropriate to concentrate the proposed Small House within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructure and services.
- R3 The approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such similar applications would result in spreading Small Houses in the “GB” zone and a general degradation of the rural environment of the area.

**Similar S.16 Applications for Proposed House (New Territories Exempted House - Small House)
partly within the “ Green Belt ” zone in the vicinity of the Site
in the Lung Yeuk Tau and Kwan Tei South Area**

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-LYT/224	Proposed New Territories Exempted House (NTEH) (Small House)	3.8.2001	A1, A2, A3 & A4
A/NE-LYT/453 ^{*1}	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A1, A3, A4 & A5
A/NE-LYT/458 ^{*2}	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A1, A3, A4, A5 & A6
A/NE-LYT/459 ^{*3}	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A1, A3, A4, A5 & A6
A/NE-LYT/460 ^{*4}	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A1, A3, A4, A5 & A6
A/NE-LYT/461 ^{*5}	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A1, A3, A4, A5 & A6
A/NE-LYT/617 ^{*1}	Proposed House (New Territories Exempted House - Small House)	7.4.2017	A1, A3, A4 & A7
A/NE-LYT/622 ^{*2}	Proposed House (New Territories Exempted House - Small House)	7.4.2017	A1, A3, A4 & A7
A/NE-LYT/623 ^{*5}	Proposed House (New Territories Exempted House - Small House)	7.4.2017	A1, A3, A4 & A7
A/NE-LYT/633 ^{*3}	Proposed House (New Territories Exempted House - Small House)	8.9.2017	A1, A3, A4 & A7
A/NE-LYT/634 ^{*4}	Proposed House (New Territories Exempted House - Small House)	8.9.2017	A1, A3, A4 & A7

Remarks

- *1: Applications No. A/NE- LYT/453 and A/NE- LYT/617 are at the same location
- *2: Applications No. A/NE-LYT/458 and A/NE- LYT/622 are at the same location
- *3: Applications No. A/NE-LYT/459 and A/NE- LYT/633 are at the same location
- *4: Applications No. A/NE-LYT/460 and A/NE- LYT/634 are at the same location
- *5: Applications No. A/NE-LYT/461 and A/NE- LYT/623 are at the same location

Approval Conditions:

- A1 The submission and implementation of drainage proposal
- A2 The provision of fire safety installations
- A3 The submission and implementation of landscape proposal
- A4 Commencement clause
- A5 The provision of fire-fighting access, water supplies for fire-fighting and fire service installations
- A6 The setting back of the eastern boundary of the application site to avoid encroachment onto the existing village road
- A7 The provision of septic tank

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site falls within the 'VE' of Ma Mei Ha;
- (b) no Small House application from the applicant has been received at the Site. His eligibility for Small House grant cannot be ascertained at this stage;
- (c) the Site is not covered by any Modification of Tenancy/Building Licence; and
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand forecast for Ma Mei Ha are 20 and 82 respectively. The figures of the 10-year Small House demand forecast were provided by the relevant Indigenous Inhabitant Representatives without any supporting evidence and his office is not in a position to verify the forecasts.

2. Traffic

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

- (a) she has reservation on the application. Such type of development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of development outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the application only involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution; and
- (b) the septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person.

4. Landscape

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

- (a) she has reservation on the application from the landscape planning perspective;
- (b) the Site is located in an area of rural landscape character comprises village houses and

clusters of trees. Compared with the previous planning application No. A/NE-LYT/559, no significant change is observed in the landscape aspect of the Site;

- (c) the Site is mostly covered by wild grass and situated within the “GB” zone that serves as green buffer to the adjacent “V” zone. Approval of this application may set an undesirable precedent of extending small house development into “GB” zone, which would defeat the purpose of defining the limits of urban and sub-urban areas by natural features, and to contain urban sprawl as well as to provide passive recreational outlets; and
- (d) in view of limited space within the Site for meaningful landscape treatment, and there is no major public frontage along the site boundary, should the Board approve the application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

5. Drainage

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

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site that it will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

6. Fire Safety

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

- (a) he has no in-principle objection to the application; and
- (b) the applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

7. Water Supply

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

- (a) he has no objection to the application;
- (b) existing water mains as shown in Plan A-2a is in close proximity to the proposed lot which may be affected. The applicant may be required to either divert or protect the water mains found on Site;
- (c) if diversion is required, existing water mains inside the proposed lot are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence;

- (d) if the diversion is not required, the following conditions shall apply:
- (i) existing water mains are affected and no development which requires resting of water mains will be allowed;
 - (ii) details of site formation works shall be submitted to the Director of Water Supplies for approval prior to commencement of works;
 - (iii) no structures shall be built or materials stored within 1.5m from the centre line(s) of water main(s) shown on the plan. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (iv) no tree or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water main(s) shown on the plan. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the Director of Water Supplies. Rigid root barrier may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipes;
 - (v) no piling or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and
 - (vi) tree planting may be prohibited in the event that the Director of Water Supplies considers that there is any likelihood of damage being caused to water mains; and

8. Agriculture

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

- (a) she has no comment on the application from agricultural point of view;
- (b) the Site is covered by grass and tree seedlings of common species, there is a mature tree (*Cinnamomum camphora* 樟樹) located to the southwest of the Site and the tree crown maybe affected by the proposed Small House development;
- (c) should the application be approved, the applicant should be advised to avoid affecting the mature tree as far as practicable and pruning of the tree should be kept to minimum; and
- (d) it is advised to consider if the proposed development is in line with the planning intention of "GB" zone.

9. District Officer's Comments

Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

District Officer (North) (DO(N)) advises that she has consulted the locals. The Resident representative (RR) and the Indigenous Inhabitant Representative (IIR) of Ma Mei Ha support the application provided that the proposed development will not cause inconvenience to residents nearby and there is provision of sewer. The Chairman of Fanling District Rural Committee has no comment on the application.

10. Demand and Supply of Small House Site

According to DLO/N's records, the total number of outstanding Small House applications for Ma Mei Ha is 20 while the 10-year Small House demand forecast for the same village is 82. According to the latest estimate by PlanD, about 1.47 ha (equivalent to about 58 Small House sites) of land are available within the "V" zone of Ma Mei Ha. There is insufficient land in the "V" zone of Ma Mei Ha to meet the future demand of Small Houses (i.e. about 2.55 ha of land which is equivalent to 102 Small House sites).

Recommended Advisory Clauses

- (a) to note the following comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):
- (i) existing water mains is in close proximity to the proposed lot which may be affected. The applicant may be required to either divert or protect the water mains found on Site;
 - (ii) if diversion is required, existing water mains inside the proposed lot are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence; and
 - (iii) if the diversion is not required, the applicant is advised to follow the conditions as set out at Appendix V;
- (b) to note the comments of Director of Fire Services (D of FS) that the applicant should 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;
- (c) to note the comments of CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (d) to note the comments of Director of Agriculture, Fisheries and Conservation (DAFC) that should the application be approved, the applicant should be advised to avoid affecting the mature tree as far as practicable and pruning of the tree should be kept to minimum;
- (e) to note the comments of the Director of Environmental Protection (DEP) that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person; 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 applicants 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.