

Relevant Revised Interim Criteria for Consideration of Application for
NTEH/Small House in the 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 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

- (j) 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 Site and
within the same “Green Belt” zone
on the Shap Sz Heung Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-SSH/29	Proposed Three Houses (New Territories Exempted House - Small House)	16.5.2003	A1
A/NE-SSH/40	Proposed House (New Territories Exempted House - Small House)	17.12.2004	A1
A/NE-SSH/45	Proposed House (New Territories Exempted House - Small House)	26.8.2005	A2
A/NE-SSH/58	Proposed House (New Territories Exempted House - Small House)	24.8.2007	A3
A/NE-SSH/73	Proposed House (New Territories Exempted House - Small House)	27.8.2010	A4,A5
A/NE-SSH/81	Proposed House (New Territories Exempted House - Small House)	10.8.2012	A4,A6
A/NE-SSH/83	Proposed House (New Territories Exempted House - Small House)	24.8.2012	A1,A4,A7
A/NE-SSH/84	Proposed House (New Territories Exempted House - Small House)	5.10.2012	A3,A4,A8
A/NE-SSH/86	Proposed House (New Territories Exempted House - Small House)	6.9.2013	A5,A6,A8
A/NE-SSH/87	Proposed House (New Territories Exempted House - Small House)	7.2.2014	A5
A/NE-SSH/102	Proposed House (New Territories Exempted House - Small House)	10.6.2016	A5,A9,A10

Approval Conditions

- A1. The provision of drainage facilities.
- A2. The submission and provision of drainage facilities..
- A3. The submission and implementation of drainage facilities.
- A4. The provision of fire-fighting access, water supplies and fire service installations.

- A5. The submission and implementation of drainage proposal.
- A6. The submission and implementation of a tree preservation proposal.
- A7. The submission of drainage proposal to demonstrate that the development would not obstruct overland flow or adversely affect existing natural streams, village drains, ditches and the adjacent areas.
- A8. The submission of a Geotechnical Planning Review Report.
- A9. The provision of septic tank, as proposed by the applicant.
- A10. The diversion of existing water mains within the site.

Rejected Application

Nil

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 is an indigenous villager of Kei Ling Ha San Wai Village of Sai Kung North Heung as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is not covered by Modification of Tenancy or Building Licence;
- (d) the Site falls entirely within the village 'environs' of Kei Ling Ha San Wai Village;
- (e) the number of outstanding Small House applications and the number of 10-year Small House demand for village concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Kei Ling Ha San Wai	4	16

(*The figure of 10-year Small House demand was estimated and provided by the IIR of Kei Ling Ha San Wai and the information so obtained is not verified in any way by LandsD.)

- (f) if and after planning permission has been given by the Town Planning Board, LandsD will continue to process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is 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 footprint of the proposed Small House should be re-shaped in order to maintain at least 1m clearance with the adjoining Lot No. 796 which has no accurate survey data. The applicant may consider to align the proposed Small House with the adjoining Lots No. 1160 and 1147 if necessary. In addition, existing platform, railing, u-channel, catchpit and trees should not be intervened.

2. **Traffic**

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

- (a) in general, he has reservation on the application. Such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (b) notwithstanding the above, he considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds; and
- (c) the existing village access on and near the Site is not under Transport Department’s management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (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 Practice Note for Professional Person (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) has some reservations on the application from the landscape planning point of view;
- (b) the Site is situated in an area of rural landscape character comprising of natural woodland and village houses. Existing village houses are found concentrated within “V” zone to the north of the Site. Although the proposed development is not in line with the planning intention of “GB” zone, it is not incompatible with the surrounding environment;
- (c) the Site is vacant and unpaved. No existing tree is found within the Site. Noting that part of the Site is located on a slope at the fringe of the adjacent

woodland, the proposed development would inevitably involve site formation and/or slope works. As the Site adjoins the wooded area comprising mature and semi-mature native trees, any works within the Site might encroach onto the adjoining wooded area and affect the root zone and tree crown of the nearby trees. With no related information such as formation level or extent of slope works, adverse impact arising from site formation and/or slope works to the adjacent woodland cannot be ascertained;

- (d) comparing with the past aerial photos, it is apparent that vegetation has been cleared within the Site since 2011 prior to submission of the application. Approval of the application would set an undesirable precedent to encourage such unauthorized removal of vegetation, and would further attract similar developments in the “GB” zone. The cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the area;
- (e) since the footprint of the proposed Small House covers the entire Site, leaving no space for landscaping within the Site, the standard condition for submission and implementation of landscaping proposal is not recommended; and
- (f) should the application be approved, the applicant is advised to adopt tree protection measures to minimize adverse impact to the adjacent trees during construction works. The applicant should refer to the *Tree Care during Construction* (工程期間的樹木護理) promulgated by the Development Bureau.

5. **Drainage**

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

- (a) no in-principle objection to the proposed Small House from public drainage viewpoint;
- (b) there is no public drain maintained by DSD in the vicinity of the Site. If the application is approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to the satisfaction of Director of Drainage Services to ensure that the proposed development will not cause adverse drainage impact to the adjacent area;
- (c) the proposed development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The applicant is required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicant should design the drainage proposal based on the actual 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;

- (e) the applicant should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
- (f) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
- (g) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP, LandsD and/or relevant private lot owners should be sought;
- (h) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and
- (i) there is no existing public sewerage in the vicinity of the Site. The Environmental Protection Department should be consulted regarding the sewage treatment/disposal aspects of the proposed development and the provision of septic tank;

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

- no comment on the application as the proposed Small House has no conflict with the proposed sewerage works in Kei Ling Ha San Wai under PWP Item No. 4125DS "Tolo Harbour Sewerage of Unsewered Areas Stage 2".

6. **Nature Conservation**

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

- (a) has reservation on the application from the nature conservation perspective; and
- (b) the Site adjoins the woodland vegetation to its southwest. The proposed development will affect native woodland vegetation in the vicinity of the Site.

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 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; and
- (b) 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 the 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 particular comment on the application from electricity supply safety aspect;
- (b) in the interest 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 (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 vicinity of the Site. 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 Sai Sha Road) in the vicinity of the Site. The applicant should liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development; and
- (d) the applicant is required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes" for reference.

10. Demand and Supply of Small House Site

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Kei Ling Ha San Wan is four while the 10-year Small House demand forecast provided by the IIR of the same village is 16. Based on the latest estimate by Planning Department, about 1.09 ha (or equivalent to about 43 Small House sites) of land are available within the "V" zone. Therefore, there is no general shortage of land within "V" zone to meet the future Small House demand (about 0.5 ha or equivalent to about 20 Small Houses).

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) if the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to the terms and conditions as 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
 - (ii) the footprint of the proposed Small House should be re-shaped in order to maintain at least 1m clearance with the adjoining Lot No. 796 which has no accurate survey data. The applicant may consider to align the proposed Small House with the adjoining Lots No. 1160 and 1147 if necessary. In addition, existing platform, railing, u-channel, catchpit and trees should not be intervened;
- (b) to note the comments of the Commissioner for Transport (C for T) that the existing village access on and near the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (c) to note the comments of the 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 Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person;
- (d) to note the comments of Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that the applicant should adopt tree protection measures to minimize adverse impact to the adjacent trees during construction works. The applicant should refer to the *Tree Care during Construction* (工程期間的樹木護理) promulgated by the Development Bureau;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) the proposed development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The applicant should maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant 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 proposed works. The existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing stream course/pond/river/the top of embankment should be maintained;

- (iii) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
 - (iv) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP, LandsD and/or relevant private lot owners should be sought; and
 - (v) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (f) to note the comments of the Director of Fire Services (D of FS) that the applicant should be 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 the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that 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 the inside services within the private lots to WSD's standards;
- (h) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that:
- (i) in the interest 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 (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 vicinity of the Site. 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;
 - (ii) there is a high pressure underground town gas transmission pipeline (running along Sai Sha Road) in the vicinity of the Site. 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 set back distance away from them during the design and construction stages of development; and

- (iii) the applicant is required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes"; and
- (i) to note that the permission is only given to the development under the 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.