

**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.

**Previous s. 16 Application at the Site  
on the Shap Sz Heung Outline Zoning Plan**

**Approved Application**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Condition</b>
A/NE-SSH/87	Proposed House (New Territories Exempted House - Small House)	07.02.2014	A1

**Approval Condition**

A1. The submission and implementation of a drainage proposal

**Rejected Application**

Nil

**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**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-SSH/29	Three Proposed Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	16.05.2003	A1
A/NE-SSH/40	Proposed House (NTEH - Small House)	17.12.2004	A1
A/NE-SSH/45	Proposed House (NTEH - Small House)	26.08.2005	A2
A/NE-SSH/58	Proposed House (NTEH - Small House)	24.08.2007	A3
A/NE-SSH/73	Proposed House (NTEH - Small House)	27.08.2010	A4, A5
A/NE-SSH/81	Proposed House (NTEH - Small House)	10.08.2012	A4, A6
A/NE-SSH/83	Proposed House (NTEH - Small House)	24.08.2012	A1, A4, A7
A/NE-SSH/84	Proposed House (NTEH - Small House)	05.10.2012	A3, A4, A8
A/NE-SSH/86	Proposed House (NTEH - Small House)	06.09.2013	A5, A6, A8
A/NE-SSH/102	Proposed House (NTEH - Small House)	10.06.2016	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 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 application site.

### **Rejected Applications**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-SSH/116	Proposed House (NTEH - Small House)	15.06.2018	R1 – R4
A/NE-SSH/123	Proposed House (NTEH - Small House)	19.10.2018	R1 – R4

### Rejection Reasons

- R1. The proposed development is not in line with the planning intention of the “GB” zone, which is 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. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention.
- R2. The proposed development is not in line with the Town Planning Board Guidelines for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the proposed development has involved clearance of vegetation and generated adverse landscape impact to the area.

- R3. The proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that it would cause adverse landscape impact on the surrounding areas and there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Kei Ling Ha San Wai.
- R4. Land is still available within the “V” zone of Kei Ling Ha San Wai which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

**Detailed Comments from Relevant Government Departments**

**1. Land Administration**

Comments of 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);
- (c) the Site is not covered by Modification of Tenancy or Building Licence;
- (d) the Small House application submitted by the applicant on the Site has been approved and pending execution;
- (e) 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;
- (f) there is no designated Fung Shui area in Kei Ling Ha San Wai Village;
- (g) the Site falls entirely within the village ‘environs’ of Kei Ling Ha San Wai Village; and
- (h) 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	5	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.)

**2. Traffic**

Comments of 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; and

- (b) notwithstanding the above, he considers that the application only involving development of a Small House can be tolerated unless it is rejected on other grounds.

### **3. Environment**

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

- (a) 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. Although the proposed use 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 covers with grasses. No existing tree is found within the Site. Adverse impact arising from the proposed development on significant landscape resources within the Site is not anticipated. Noting that part of the Site is located on a sloping ground at the fringe of the adjacent woodland, the proposed development would inevitably involve site formation and/or slope works. 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 the past aerial photos, it is noted that vegetation has been cleared within the Site since 2011 prior to submission of the application. In addition, approval of the application would further attract similar developments into the 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; and



- (e) since the footprint of proposed house covers the entire site, there is no space for landscaping within the site. Should the Board approve the application, the standard condition for submission and implementation of landscaping proposal is not recommended.

## 5. Drainage

### 5.1 Comments of 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 surrounding area and the residential premises located at its downhill side;
- (c) the proposed development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and its uphill overland flow. 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 indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) based on the survey plan, there is an existing streamcourse about 25m away from the Site. The applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from other concerned parties/departments if necessary;
- (e) the applicant should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed development. The Site is located on the unpaved ground and slope area. The proposed development will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff, and thus cause flooding risk to surrounding area and the residential premises located at its downhill side. The applicant should take this into account when preparing the drainage proposal. 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) there is no existing public sewerage in the vicinity of the Site. EPD should be consulted regarding the sewage treatment/disposal aspects of the proposed development and the provisions of septic tank;
- (g) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
- (h) 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;
- (i) 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
- (j) the proposed development is located on the slope area. The stability of the existing slope may be affected if the proposal is approved. H(GEO), CEDD should be consulted on this aspect.

5.2 Comments of 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.

**6. Nature Conservation**

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

- has no comment on the application as the Site is the subject of a previous application approved by the Board. Nevertheless, the applicant should limit the extent of the ancillary site formation to avoid impact on the surrounding vegetation.

**7. Fire Safety**

Comments of 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 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. Town Gas Safety**

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

- (a) there is a high pressure underground town gas transmission pipeline (running along Sai Sha Road) in the vicinity of the Site;
- (b) 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
- (c) the applicant is required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoidance of Damage to Gas Pipes 2<sup>nd</sup> Edition" 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 five 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 0.525 ha or equivalent to about 21 Small Houses).

**Recommended Advisory Clauses**

- (a) to note the comment of District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that 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;
- (b) to note the comment of 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;
- (c) to note the comments of 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 its uphill overland flow. 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 indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
  - (ii) based on the survey plan, there is an existing streamcourse about 25m away from the Site. The applicant should design the drainage proposal based on the actual site condition for DSD’s comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from other concerned parties/departments if necessary;
  - (iii) the applicant should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed development. The Site is located on the unpaved ground and slope area. The proposed development will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff, and thus cause flooding risk to surrounding area and the residential premises located at its downhill side. The applicant should take this into account when preparing the drainage proposal. 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;
  - (iv) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;

- (v) 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
  - (vi) 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;
- (d) to note the comment of 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;
- (e) to note the comment of 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;
- (f) to note the comments of Director of Electrical and Mechanical Services (DEMS) that:
- (i) there is a high pressure underground town gas transmission pipeline (running along Sai Sha Road) in the vicinity of the Site;
  - (ii) 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 Avoidance of Damage to Gas Pipes 2<sup>nd</sup> Edition"; and
- (g) 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 should obtain planning permission from the Town Planning Board where required before carrying out the road works.