

**Relevant Revised Interim Criteria for Assessing Planning Applications for
NTEH/Small House Development 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 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.

**Town Planning Board Guidelines for “Submission of Master Layout Plan under section
4A(2) of the Town Planning Ordinance” (TPB PG-No.18A)**

The Town Planning Board Guidelines (TPB PG-No. 18A) for “Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance” are relevant to this application. The major relevant points are as follows:

- (i) the Board may require all applications for permission in an area zoned as “CDA” to be in the form of MLP and supported by other relevant information;
- (ii) in general, the MLP should include plans showing the location of the “CDA” site and the general layout of the whole development and a development schedule showing the main development parameters;
- (iii) if the “CDA” site is not under single ownership, the applicant should be required to demonstrate that the proposed phasing of development has taken due consideration of the development potential of the lots which are not under his ownership. The corresponding GFA and flat number distribution as well as provision of GIC, open space and other public facilities in each phase should be clearly indicated;
- (iv) the MLP should be supported by an explanatory statement which contains an adequate explanation of the development proposal, including such basic information as land tenure, relevant lease conditions, existing conditions of the site, the character of the site in relation to the surrounding areas, principles of layout design, design population, provision of GIC, recreation and open space facilities including responsibility for their construction cost and operation/management, vehicular and pedestrian circulation system including widths and levels of roads/footbridges and whether they would be handed back to the Government on completion; and
- (v) additional information such as TIA, EA, HA, VIA and drainage/sewage impact studies may also be required, where appropriate.

Previous s. 16 & s. 17 Application of the Site

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-SSH/96	Proposed New Territories Exempted House (NTEH - Small House)	10.4.2015 (on review)	A1 – A3

Approval Conditions

- A1. The provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board;
- A2. The submission and implementation of landscape and tree preservation proposals to the satisfaction of the Director of Planning or of the Town Planning Board; and
- A3. The submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

**Similar s. 16 Applications in the vicinity of the Site and within the same “CDA” zone on
the Shap Sz Heung Outline Zoning Plan No. S/NE-SSH/11**

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-SSH/52	Proposed New Territories Exempted House (NTEH - Small House)	3.3.2006	A1 – A3
A/NE-SSH/97	Proposed New Territories Exempted House (NTEH - Small House)	10.4.2015 On review	A2 – A4

Approval Conditions

- A1. The permission shall cease to have effect on a specified date unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.
- A2. The submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the TPB.
- A3. The submission and implementation of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB.
- A4. The provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board.

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 Ping Chau Chau Mei Village of Sai Kung North as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, but 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 subject lots are held under Block Government Lease demised for agricultural use. Small House (SH) application by the way of Building Licence submitted by the same applicant for the Site in May 2017 is still under processing;
- (e) if the applicant's septic tank and soakage pit system will be constructed on adjoining Lot No. 1124 RP in D.D. 218, the applicant is required to procure Deed of Grant for construction and future maintenance of the said system. Such deed must be prepared by a solicitor, properly executed and duly registered in the Land Registry against the affected lots;
- (f) if and after planning approval has been given by TPB, his office will process the SH application. However, there is no guarantee at this stage that the SH application would be approved. If the SH 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. Please also note that there is no guarantee to the grant of a right of way to the SH concerned or approval of the EVA thereto;
- (g) the application site entirely falls within the 'VE' of Che Ha village; and
- (h) the number of outstanding SH applications and the number of 10-year SH demand for the village are as follows:

<u>Village</u>	<u>No. of 10-year Small House demand forecast</u>	<u>No. of outstanding Small House applications</u>
Che Ha	30*	16

(*The figure of 10-year Small House demand is estimated and provided by the IIR of Che Ha village and the information so obtained is not verified in any way by DLO/TP, LandsD.)

2. **Traffic**

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

- (a) no in-principle objection; and
- (b) the existing village access on and near the application site is not under TD'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) no objection to the application;
- (b) in view of the small scale of the proposed developments, the application alone is unlikely to cause major pollution;
- (c) 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 (AP); and
- (d) based on the information provided, no objection from chlorine risk point of view for this application falling within the Consultation Zone of Ma On Shan Water Treatment Works.

4. **Drainage**

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

- (a) there is no existing DSD maintained public drain available for connection in this area;
- (b) if the captioned application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the site to satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill side;
- (c) the proposed house should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and its uphill overland flow. 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;

- (d) the applicant should note that they 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 all concerned parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed small house;
- (e) 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 available in the vicinity of the Site. EPD should be consulted regarding the sewage treatment/disposal aspects of the house and the provision of septic tank;
- (g) the proposed small houses may have interfaces with the proposed public sewerage system to be implemented under the project "Tolo Harbour Sewerage of Unsewered Areas Stage 2" undertaken by CM Division, DSD in the vicinity. CM Division, DSD should be consulted for possible interfacing issue;
- (h) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their expense;
- (i) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought; and
- (j) 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 lots. 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.

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

The proposed small house application has no conflict with the "Tolo Harbour Sewerage of Unsewered Areas Stage 2" works in Che Ha. Hence, his office has no comment to the application.

5. Water Supply

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

- (a) no objection to the application;
- (b) for provision of fresh water supply to the development, the applicant may need to extend his 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 WSD's standards.
- (c) DFS should note that standard pedestal hydrant cannot be provided in the vicinity of the proposed site; and
- (d) the application site falls within the consultation zone of Ma On Shan Water Treatment Works, which is PHI. Comments from EPD should be sought in this respect.

6. 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.

7. Electricity safety

He has no particular comment on the application from electricity supply safety aspect. However, 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 mentioned 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 concerned 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.

8. Landscape

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

- (a) no objection to the application;
- (b) the Site is situated to the east of Che Ha Village which is in an area of rural landscape character comprising scattered tree groups and village houses. Given similar Small Houses are found in close proximity to the Site, the application is not incompatible with the surrounding environment;
- (c) the Site is vacant and covered with gravels. 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; and
- (d) since there is not adequate space for meaningful landscaping within the Site to benefit the public realm, should the Town Planning Board approve the application, the condition for submission and implementation of landscaping proposal is not recommended.

9. Nature Conservation

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

The Site is hard paved and currently used as car park. Although the Site encroaches onto the fringe of the ecological buffer zone, it is the subject of a previously approved planning permission. He has no strong view on the application.

10. Demand and Supply of Small House Sites

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Che Ha Village is 16 while the 10-year Small House demand forecast for the village is 30. From the latest estimate by Planning Department, about 2.18 ha (or equivalent to about 87 Small House sites) of land are available within the "V" zone of Che Ha Village. As such, the land available in the village is sufficient to meet the future Small House demand of 1.15 ha (or equivalent to about 46 Small House sites).

Recommended Advisory Clauses

- (a) to note the DLO/TP, LandsD's comments that:
 - (i) if the applicant's septic tank and soakage pit system will be constructed on adjoining Lot No. 1124 RP in D.D. 218, the applicant is required to procure a Deed of Grant for the construction and future maintenance of the said system. Such deed must be prepared by a solicitor, properly executed and duly registered in the Land Registry against the affected lots;
 - (ii) if and after planning approval has been given by TPB, LandsD office will process the Small House application. 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;
- (b) to note the C for T's comments that the existing village access near the Sites is not under TD'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 DEP's comments 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 (AP);
- (d) to note the CE/MN, DSD's comments that;
 - (i) there is no existing DSD maintained public drain available for connection in this area;
 - (ii) the applicant needs to submit and implement the drainage proposal for the site to satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill side;
 - (iii) the proposed house should have their own stormwater collection and discharge systems to cater for the runoff generated within the site and its uphill overland flow. The applicant/owner is also required to maintain such systems properly and rectify the system 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;
 - (iv) the applicant should note that they 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 all concerned parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed small house;

- (v) 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;
 - (vi) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their expense;
 - (vii) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought;
 - (viii) 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 lots. 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;
- (e) to note the CE/C, WSD's comments that for provision of fresh water supply to the development, the applicant may need to extend his 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 D of FS's comment 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 DEMS's comment that 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 mentioned 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 concerned 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; and
- (h) 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 developments, 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.