

**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.

**Previous s. 16 Application (for Application No. A/NE-TK/645)**

**Rejected Application**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reason</b>
A/NE-TK/617	Proposed House (New Territories Exempted House - Small House)	28.07.2017	R1, R2

**Rejection Reasons**

- R1 The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong justification in the submission for a departure from the planning intention.
- R2 Land was still available within the “Village Type Development” (“V”) zone of Po Sam Pai which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.



**Similar Applications**  
**within the same “Agriculture” Zone**  
**on the Ting Kok Outline Zoning Plan**

**Approved Applications**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-TK/156	Proposed House (New Territories Exempted House - Small House)	21.03.2003	A1, A2
A/NE-TK/282	Proposed House (New Territories Exempted House - Small House)	07.08.2009	A1 – A4
A/NE-TK/302	Proposed House (New Territories Exempted House - Small House)	28.05.2010	A1 – A3
A/NE-TK/342	Proposed House (New Territories Exempted House - Small House)	28.01.2011	A2, A3
A/NE-TK/377	Proposed House (New Territories Exempted House - Small House)	06.01.2012	A1 – A3, A5
A/NE-TK/378	Proposed Two Houses (New Territories Exempted Houses - Small Houses)	06.01.2012	A1 – A3
A/NE-TK/381	Proposed House (New Territories Exempted House - Small House)	24.02.2012	A1 – A3
A/NE-TK/460	Proposed House (New Territories Exempted House - Small House)	13.12.2013	A1, A2
A/NE-TK/461	Proposed House (New Territories Exempted House - Small House)	13.12.2013	A1, A2

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-TK/503	Proposed House (New Territories Exempted House - Small House)	04.04.2014	A1, A2
A/NE-TK/633	Proposed House (New Territories Exempted House - Small House)	02.03.2018	A1, A2, A6
A/NE-TK/642	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A7

#### Approval Conditions

- A1 The submission and implementation of landscaping and/or tree preservation proposals
- A2 The submission and implementation of drainage proposals/facilities
- A3 The provision of firefighting access, water supplies and fire service installations
- A4 The re-provisioning of the existing footpath within the Site
- A5 The setting back of the western corner of the application site to avoid encroachment onto the existing footpath
- A6 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.
- A7 The connection of the foul water drainage system to the public sewers

#### **Rejected Applications**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-TK/150	Proposed New Territories Exempted House (NTEH) (Small House)	17.01.2003	R1 – R4
A/NE-TK/364	Proposed New Territories Exempted House (NTEH) (Small House)	05.08.2011	R5 – R6

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-TK/371	Proposed New Territories Exempted House (NTEH) (Small House)	21.10.2011	R6, R7
A/NE-TK/590	Proposed House (New Territories Exempted House - Small House)	30.09.2016	R1, R6, R8, R9

### Rejection Reasons

- R1 The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong justification in the submission for a departure from the planning intention.
- R2 The proposed NTEH (Small House) development did not comply with the interim criteria for consideration of application for NTEH/Small House development in the New Territories in that the application site was located outside both the village ‘environs’ and the “Village Type Development” (“V”) zone of Po Sam Pai Village and San Tau Kok Village;
- R3 There was no information in the submission to demonstrate that land for NTEH/Small House development was not available within the “V” zone of the applicant’s own village and other recognized villages in Tai Po.
- R4 The approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in the encroachment of agricultural land with high potential for agricultural rehabilitation, causing a general degradation of the rural environment of the area.
- R5 The proposed development did not comply with the 'Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories' in that construction of the proposed Small House and the associated site formation works would have direct impacts on the mature trees and dense vegetation on the site and its surrounding areas and cause irreversible damage to the landscape resources and character of the area. The applicant failed to demonstrate that the proposed development would not cause adverse landscape impacts on the surrounding areas.
- R6 The approval of the application would set an undesirable precedent for other similar applications in the area; and/or the adjacent “Agriculture” zone; and/or the cumulative impacts of approving such applications would result in further encroachment onto the woodland surrounding the area and a general degradation of the environment and landscape quality of the area.

- R7 The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories as more than 50% of the footprint of the proposed Small House was outside the “Village Type Development” zone and the village 'environs' of any recognized village.
- R8 The proposed development did not comply with the Interim Criteria for consideration of application for New Territories Exempted House/Small House in New Territories in that the proposed Small House would have adverse landscape and geotechnical impacts on the surrounding areas.
- R9 Land was still available within the “Village Type Development” (“V”) zone of Po Sam Pai which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “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 the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) has no objection to the applications;
- (b) the three applicants, Mr. WONG Wing Him, Mr. WONG Pui Yip and Mr. WONG Yuen Keung, claimed themselves as indigenous villagers of Luk Heung Kam Chuk Pai while the remaining applicant Mr. LI Jurvin, claimed himself as an indigenous villager of Shuen Wan Sha Lan. However, their eligibilities of Small House grants have yet to be ascertained;
- (c) the applicants have submitted applications for Small Houses to LandsD. The Sites are Old Schedule Lots held under Block Government Lease (demised for agricultural use) and the applicants are the registered owners of the subject lots;
- (d) the Sites under applications are not covered by Modification of Tenancy or Building Licence;
- (e) should the applications be approved by 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. If the Small House applications are approved by LandsD acting in the capacity as landlord at 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 each of the proposed Small Houses or approval of the emergency vehicular access thereto;
- (f) the Sites fall outside the village environs ('VE') of Po Sam Pai but partly within the "Village Type Development" ("V") zone;
- (g) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follow:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand *</u>
Po Sam Pai	46	170
San Tau Kok	11	54

(\* The figure of 10-year Small House demand is provided by the IIR of concerned villages in 2016 and 2012 respectively and the information so obtained is not verified by LandsD);

- (h) with respect to the proposed septic tanks of the applications, they will be considered when the cases are due for processing; and

## 2. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) has no in-principle objection to the applications; and
- (b) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of 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 Persons.

## 3. Landscape

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

- (a) has no objection to the applications from landscape planning perspective;
- (b) the Sites are situated in an area of rural landscape character comprising of scattered tree groups, abandoned farmland and village houses. Although the proposed developments are not in line with the planning intention of "AGR" zone, they are not incompatible with the surrounding environment. The Sites are vacant and paved with asphalt;

### Application No. A/NE-TK/643

- (c) two existing trees of *Celtis sinensis* (朴樹) (T2) and *Mangifera indica* (杧果) (T3) are recorded within the Site, which were in good condition and considered to be valuable landscape resources with high amenity value. Referring to the layout plan submitted by the applicant, the proposed Small House will be in direct conflict with the existing tree. However, based on the further information (FI) submitted by the applicant (**Appendix Ie**), it is noted that the existing tree T2 within the Site was severely damaged and tree T3 adjoining the southern boundary of the Site was partially damaged by typhoon Mangkhut, and emergency felling of T2 and pruning of T3 is anticipated. Thus, adverse impact on landscape resources arising from the proposed development is not anticipated;

### Application No. A/NE-TK/644

- (d) one *Macaranga tanarius* (山桐子) (T1) is recorded within the Site. Referring to the layout plan submitted by the applicant, the proposed Small House will be in direct conflict with the existing tree. However, the existing tree is of a common fast-growing species and included bark was observed which is considered as a potential risk to tree failure. Moreover, based on the FI submitted by the applicant (**Appendix Ie**), tree T1 was severely damaged by typhoon Mangkhut, and emergency felling of T1 is anticipated. Hence, adverse impact on landscape resources arising from the proposed development is not anticipated;

Applications No. A/NE-TK/645 and 646

- (e) as no existing trees are recorded within the Sites, adverse impact to significant landscape resources arising from the proposed developments is not anticipated; and
- (f) should the applications be approved by the Board, since the footprints of the proposed Small Houses cover most of the Sites, there is inadequate space for landscaping within the Sites. The standard condition for submission and implementation of landscape proposal is not recommended.

**4. Drainage and Sewerage**

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

- (a) has no in-principle objection to the applications from public drainage viewpoint;
- (b) if the applications are approved, a condition should be included to request each of the applicants to submit and implement the drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no existing DSD maintained public stormwater drain available for connection in this area. The proposed developments should have their own stormwater collection and discharge systems to cater for the runoff generated within the Sites and overland flow from surrounding of the Sites. Any existing flow path affected should be re-provided. The proposed developments should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicants/ owners should maintain the drainage systems properly and rectify the systems if found to be inadequate or ineffective during operation. The applicants/ owners should also be liable for and indemnify claims and demands arising out of damage or nuisance caused by failure of the system. Furthermore, the systems will not be managed nor maintained by DSD;
- (d) while noting the proposed septic tanks of the applications, there are DSD's public sewers in the vicinity of the Sites (over 20m away from the proposed developments). EPD should be consulted regarding the sewage treatment/disposal aspects ; and
- (e) the applicants should take all precautionary measures to prevent any disturbance, damage and pollution from the proposed developments to any parts of the existing drainage facilities in the vicinity of the Sites. In the event of any damage to the existing drainage facilities, the applicants should be responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom. For works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

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

- (a) has no comment on the applications; and
- (b) the sewerage works in Po Sam Pai have been completed and there is no on-going project in the concerned village.

**5. Water Supply**

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

- (a) has no objection to the applications; and
- (b) 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 the inside services within the private lots to WSD's standards.

**6. Agriculture**

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

- (a) the Sites are paved. Nevertheless, there are active agricultural activities in the vicinity of the Sites and agricultural infrastructure such as road access and water source is available; and
- (b) as the Sites possess potential for agricultural rehabilitation, he does not support the applications from agricultural development point of view.

**7. Fire Safety**

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

- (a) has 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. Demand and Supply of Small House Sites**

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Po Sam Pai and San Tau Kok is 57 while the 10-year Small House demand forecast for the same villages is 224. Based on the latest estimate by the Planning Department, about 3.67 ha (or equivalent to about 146 Small House

sites) of land are available within the “V” zone of Po Sam Pai and San Tau Kok. Therefore, the land available cannot fully meet the future Small House demand of about 7.03 ha (or equivalent to 281 Small House sites).



**Recommended Advisory Clauses**

- (a) to note the comments of the 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 such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the proposed Small House or approval of the emergency vehicular access thereto;
- (b) 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 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 the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
  - (i) there is no existing DSD maintained public stormwater drains available for connection in this area. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant/ owner should maintain the drainage system properly and rectify the system if found to be inadequate or ineffective during operation. The applicant/ owner should also be liable for and indemnify claims and demands arising out of damage or nuisance caused by failure of the drainage system. Furthermore, the system will not be managed nor maintained by DSD;
  - (ii) there are DSD's public sewers in the vicinity of the Site (over 20m away from the proposed development) ; and
  - (iii) the applicant should take all precautionary measures to prevent any disturbance, damage and pollution from the proposed development to any parts of the existing drainage facilities in the vicinity of the Site. In the event of any damage to the existing drainage facilities, the applicant should be responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom. For works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant lot owners should be sought;
- (d) 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;

- (e) to note the comments of the Director of Fire Services 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; 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 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.