

**Relevant Interim Criteria for Consideration of  
Application for NTEH/Small House in New Territories**  
**(promulgated on 7.9.2007)**

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) if an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development\*);

- (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
- (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.

\*i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Similar S.16 Applications for Proposed House (NTEH - Small House)  
within / partly within the “Agriculture” zone in the vicinity of the Site  
in the Ping Che & Ta Kwu Ling Area**

Approved Applications

<b>Application No.</b>	<b>Uses/Developments</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-TKL/356	Proposed 2 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	15.4.2011	A1, A2, A3 & A4
A/NE-TKL/364	Proposed House (New Territories Exempted House (NTEH) - Small House)	22.7.2011	A1, A2, A3 & A4
A/NE-TKL/365*	Proposed House (New Territories Exempted House (NTEH) - Small House)	22.7.2011	A1, A2, A3 & A4
A/NE-TKL/373	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A1, A2, A3 & A4
A/NE-TKL/374	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A1, A2, A3 & A4
A/NE-TKL/403	Proposed House (New Territories Exempted House (NTEH) - Small House)	23.11.2012	A1, A3 & A4
A/NE-TKL/404	Proposed House (New Territories Exempted House (NTEH) - Small House)	23.11.2012	A1, A3 & A4
A/NE-TKL/482	Proposed House (New Territories Exempted House (NTEH) - Small House)	17.10.2014	A1, A3 A4 & A5
A/NE-TKL/483	Proposed House (New Territories Exempted House (NTEH) - Small House)	17.10.2014	A1, A3 A4 & A5
A/NE-TKL/484	Proposed House (New Territories Exempted House (NTEH) - Small House)	17.10.2014	A1, A3 A4 & A5
A/NE-TKL/485	Proposed House (New Territories Exempted House (NTEH) - Small House)	17.10.2014	A1, A3 A4 & A5
A/NE-TKL/569*	Proposed House (New Territories Exempted House (NTEH) - Small House)	25.8.2017	A1, A3, A4 & A5

Remarks:

\* Application No. A/NE-TKL/365 and A/NE-TKL/569 are at the same location

**Approval Conditions**

A1 The submission and implementation of drainage proposals

A2 The provision of fire-fighting access, water supplies for fire-fighting and fire service installations

- A3 The submission and implementation of landscape proposals
- A4 The commencement clause
- A5 The provision of septic tank

### **Rejected Applications**

<b>Application No.</b>	<b>Uses/Developments</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-TKL/511	Proposed House (New Territories Exempted House (NTEH) - Small House)	3.7.2015	R1 & R2
A/NE-TKL/512	Proposed House (New Territories Exempted House (NTEH) - Small House)	3.7.2015	R1 & R2
A/NE-TKL/547	Proposed 2 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	15.7.2016	R1 & R2
A/NE-TKL/548	Proposed House (New Territories Exempted House (NTEH) - Small House)	15.7.2016	R1 & R2
A/NE-TKL/549	Proposed House (New Territories Exempted House (NTEH) - Small House)	15.7.2016	R1 & R2
A/NE-TKL/570	Proposed House (New Territories Exempted House (NTEH) - Small House)	25.8.2017	R1 & R2
A/NE-TKL/571	Proposed House (New Territories Exempted House (NTEH) - Small House)	25.8.2017	R1 & R2
A/NE-TKL/572	Proposed House (New Territories Exempted House (NTEH) - Small House)	25.8.2017	R1 & R2

### **Rejection Reasons**

- R1 The application was not in line with the planning intention of the “Agriculture” zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong justification to merit a departure from the planning intention.
- R2 The land was still available within the “Village Type Development” (“V”) zone of Ha Shan Kai Wat Village for Small House development. It was considered more appropriate to concentrate Small House development within the “V” zone so as to ensure an 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/North, Lands Department (DLO/N, LandsD):

- (a) the Site falls entirely within the ‘VE’ of Ha Shan Kai Wat;
- (b) the applicant claimed himself to be an indigenous villager of Shan Kai Wat of Ta Kwu Ling Heung. However, the applicant’s eligibility for Small House concessionary grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy/Building Licence;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand forecast (2015 to 2024) for Ha Shan Kai Wat are 29 and 132 respectively. The figure of the 10-year Small House demand forecast was provided by the relevant Indigenous Inhabitant Representative without any supporting evidence and his office is not in a position to verify the forecast;
- (e) if the footpath within the Site (**Plan A-2a**) is affected by the proposed development, his office may consider as if necessary and appropriate to include a clause to ensure that free passage on the portion of the footpath is to be provided at all times within the Site, should the Small House grant application be approved; and
- (f) the Small House application was made to his office on 27.8.2013.

### **2. Traffic**

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

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

### **3. Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) she does not support the application;
- (b) the propose Small House falls outside Water Gathering Ground (WGG). Since the Site is not served by public sewers and outside WGG, the applicant’s proposed use of septic tanks and soakaway systems to handle wastewater from the proposed Small House is acceptable. The design and construction of the septic tanks and soakaway systems must follow the requirements of ProPECC PN5/93 and be duly certified by an Authorised Person;

- (c) however, she noted that the location of the proposed septic tank and soakaway system is very close to an existing nullah and a natural watercourse (less than 10 m), at which the current proposed location of the soakaway pit does not meet the minimum clearance distance between the soakaway and the watercourse as required under the ProPECC Note PN5/93. Thus, the soakaway has to be relocated to meet the clearance distance;
- (d) the applicant should provide information to demonstrate that the septic tank and soakaway system will be constructed in compliance with the ProPECC PN5/93 requirements including the 15 m minimum clearance distance between the soakaway and the watercourse;
- (e) in case that the soakaway has to be located in an area outside the applicant's lot, the applicant should demonstrate that he has secured the agreement of the relevant landowner(s) for the construction, operation and maintenance of the soakaway; and
- (f) the applicant is reminded to follow the ProPECC PN1/94 "Construction Site Drainage" to prevent pollution to the nullah and the stream during the construction phase of the Small House.

#### **4. Landscape**

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

- (a) she has reservation on the application from the landscape planning perspective;
- (b) compared the aerial photo of 2014 to photo of 2017, there is no significant change in the rural landscape character where the Site is located. It is consisted of mostly farmland (both active and abandoned), some village clusters and small woodland patches. The proposed Small House is not entirely incompatible with the landscape setting. According to her site record dated 30.1.2018, it is noted that the Site is located within a large area of abandoned farmland at a distance away from the Ha Shan Kai Wat Village;
- (c) a narrow nullah with sidewalk/footpath connecting to a natural watercourse for irrigation/drainage use is found running within the Site along the eastern boundary. Both the nullah and natural watercourse are of low landscape value as the watercourse is less than 100 m in length and is decked over at the other end underneath the road/surfaced area. No significant landscape resources will be adversely affected arising from the proposed Small House. Nonetheless, there is no information regarding the construction access to the Site, thus potential adverse impact arising from additional vegetation clearance for the access cannot be ascertained;
- (d) there is still land available within the "V" zone for the proposed use. Approval of the proposed Small House application may encourage more similar applications, resulting in extension of village development beyond the existing "V" zone boundary and irreversibly altering the landscape character of the "AGR" zone; and
- (e) should the application be approved by the Board, an approval condition on the submission and implementation of landscape proposal is recommended.

## 5. Drainage

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

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) the Site is in an area where no public sewerage connection is available; and
- (d) the general requirements in the drainage proposal should include:
  - (i) surface channel with grating covers should be provided along the site boundary;
  - (ii) the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel and cathpit shall be provided;
  - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
  - (iv) the details of the catchpit shall be provided and cover shall be provided to the catchpit;
  - (v) catchpits with sand trap shall be provided at the outlets of the proposed drainage system. Details of the catch pit with sand trap should be provided;
  - (vi) the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;
  - (vii) the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
  - (viii) the existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD. The applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
  - (ix) the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;

- (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his own expense;
- (xi) for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
- (xii) the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
- (xiii) the applicant should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and
- (xiv) clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the site.

## **6. Fire Safety**

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

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

## **7. Water Supply**

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

- (a) he has no objection to the application;
- (b) for provision of water supply to the developments, the applicant may need to extend the inside services to nearest suitable Government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (c) the Site is located within WSD flooding pumping gathering ground.

## **8. Agriculture**

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

- (a) she does not support the application from the agriculture point of view;
- (b) the Site is abandoned land overgrown with grasses. Active agricultural activities can be found in the vicinity. Footpath and water source are available to the Site. The Site is arable and possesses potential for agricultural rehabilitation; and



- (c) while the nullah within the Site has been channelised, the stream course in the vicinity of the Site seems to have been created within these two years. They are unlikely with significant ecological value.

## **9. District Officer's Comments**

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

- (a) he has consulted the locals regarding the application. A North District Council (NDC) member of the subject constituency has no comment on the application; and
- (b) the nullah and footpath within the Site are constructed and maintained by his office with consent from the lot owner. He advises that the proposed Small House should be located as far away from these facilities as possible. Applicant is reminded to maintain the footpath at the Site accessible or find an alternative route to bypass lot during and after the building work. His office maintains the responsibility of the construction and maintenance of the footpath and nullah within the Site.

## **10. Demand and Supply of Small House Site**

According to DLO/N's records, the total number of outstanding Small House applications for Ha Shan Kai Wat Village is 29 while the 10-year Small House demand forecast for the same village is 132. According to the latest estimate by PlanD, about 1.81 ha (equivalent to about 72 Small House sites) of land are available within the "V" zone of Ha Shan Kai Wat Village. There is insufficient land in the "V" zone of Ha Shan Kai Wat Village to meet the future demand of Small Houses (i.e. about 4.02 ha of land which is equivalent to 161 Small House site).

**Recommended Advisory Clauses**

- (a) to note the comments of DLO/N, LandsD that if the footpath within the Site is affected by the proposed development, his office may consider as if necessary and appropriate to include a clause to ensure that free passage on the portion of the footpath is to be provided at all times within the Site, should the Small House grant application be approved;
- (b) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend the inside services to 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (c) to note the comments of D of FS that the applicant should to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (d) to note the comments of DEP that:
  - (i) the applicant should follow the ProPECC PN1/94 "Construction Site Drainage" to prevent pollution to the nullah and the stream during the construction phase of the Small House;
  - (ii) the design and construction of the septic tanks and soakaway systems must follow the requirements of ProPECC PN5/93 and be duly certified by an Authorised Person;
  - (iii) the applicant should provide information to demonstrate that the septic tank and soakaway system will be constructed in compliance with the ProPECC PN5/93 requirements including the 15 m minimum clearance distance between the soakaway and the watercourse; and
  - (iv) in case that the soakaway has to be located in an area outside the applicant's lot, the applicant should demonstrate that he has secured the agreement of the relevant landowner(s) for the construction, operation and maintenance of the soakaway.
- (e) to note the comments of DO(N), HAD that:
  - (i) since there is a nullah and a footpath within the Site, the proposed Small House should be located as far away from these facilities as possible;
  - (ii) applicant should maintain the footpath at the Site accessible or find an alternative route to bypass lot during and after the building work; and
  - (iii) his office maintains the responsibility of the construction and maintenance of the footpath and nullah within the Site.
- (f) to note the comments of CE/MN, DSD on the following:
  - (i) that the Site is in an area where no public sewerage connection is available; and
  - (ii) the general requirements in the drainage proposal should include:

- surface channel with grating covers should be provided along the site boundary;
- the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel and catchpit shall be provided;
- the cover levels of proposed channels should be flush with the existing adjoining ground level;
- the details of the catchpit shall be provided and cover shall be provided to the catchpit;
- catchpits with sand trap shall be provided at the outlets of the proposed drainage system. Details of the catch pit with sand trap should be provided;
- the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;
- the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
- the existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD. The applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
- the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;
- the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his own expense;
- for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
- the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
- the applicant should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and

- clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the site; and

(g) 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.