

**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.

Previous S.16 Application

Rejected Application

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-TKL/512	Proposed House (New Territories Exempted House (NTEH) - Small House)	3.7.2015	R1 & R2

Rejection Reasons

- R1 The proposed development 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 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.

**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

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
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

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-TKL/511	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; and
- (e) 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 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, 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) 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 ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person.

4. Landscape

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

- (a) she has reservation on the application from the landscape planning perspective;
- (b) compared the aerial photo of 2014 (under previous application No. A/NE-TKL/512) 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 Sha Kai Wat Village;
- (c) 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 development, 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; and
- (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.

9. District Officer's Comments

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

he has consulted the locals regarding the application. The North District Council (NDC) member of the subject constituency has no comment on the application.

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 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;
- (b) 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;
- (c) 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;
- (d) to note the advice of 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 ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person; and
- (e) 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.