

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 Applications

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-TKL/114	11 New Territories Exempted House (NTEH) (Small House)	11.6.1999	A1 - A5

Approval Conditions:

- A1 The provision of drainage facilities
- A2 The provision of fire service installations and emergency vehicular access
- A3 The provision of a 5m wide non-building area from the river channel
- A4 The submission and implementation of landscaping proposals
- A5 The commencement clause

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-TKL/335	Proposed 11 Houses (New Territories Exempted Houses - Small Houses)	11.6.2010	R1
A/NE-TKL/521 ^{*1}	Proposed House (New Territories Exempted House - Small House)	20.11.2015	R2 - R6
A/NE-TKL/522 ^{*2}	Proposed House (New Territories Exempted House - Small House)	20.11.2015	R2 - R6
A/NE-TKL/523 ^{*3}	Proposed House (New Territories Exempted House - Small House)	20.11.2015	R2 - R6

Remarks:

- ^{*1} Previous case of application no. A/NE-TKL/589 only
- ^{*2} Previous case of application no. A/NE-TKL/587 only
- ^{*3} Previous case of application no. A/NE-TKL/588 only

Rejection Reasons:

- R1 The proposed development did not comply with the Interim Criteria for assessing planning application for New Territories Exempted House/Small House development in that the proposed development was considered not compatible with the "Industrial (Group D)" zone. There was no information or assessment in the current submission to address potential industrial/residential interface issue associated with the proposed development.
- R2 The proposed development was not in line with the planning intention of the "Agriculture" zone in the Ping Che and Ta Kwu Ling area 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 planning justification in the submission for a departure from the planning intention.
- R3 The application 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 development was susceptible to environmental impacts of the industrial uses in the nearby "Industrial (Group D)" zone. The applicant failed to demonstrate in the submission that the potential industrial/residential interface issue would be mitigated.
- R4 The applicant failed to demonstrate in the submission that the proposed development would not have adverse sewerage impact on the surrounding area.
- R5 Land was still available within the "Village Type Development" ("V") zones of Ping Che Village where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- R6 The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in a general degradation of the environment of the surrounding area.

**Similar S.16 Applications for Proposed House (New Territories Exempted House - Small House)
in the vicinity of the application site within/partly within the “Agriculture” zone
in the Ping Che and Ta Kwu Ling Area**

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-TKL/168	Proposed New Territories Exempted House (NTEH) (Small House)	15.6.2001	A1 - A4
A/NE-TKL/186	Proposed New Territories Exempted House (NTEH) (Small House)	21.12.2001	A1, A3 & A4

Approval Conditions:

- A1 The provision of drainage facilities
- A2 The provision of fire service installations
- A3 The submission and implementation of landscaping proposals
- A4 The commencement clause

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-TKL/520* ¹	Proposed House (New Territories Exempted House - Small House)	20.11.2015	R1 - R5
A/NE-TKL/521* ²	Proposed House (New Territories Exempted House - Small House)	20.11.2015	R1 - R5
A/NE-TKL/522* ³	Proposed House (New Territories Exempted House - Small House)	20.11.2015	R1 - R5
A/NE-TKL/523* ⁴	Proposed House (New Territories Exempted House - Small House)	20.11.2015	R1 - R5
A/NE-TKL/586* ¹	Proposed House (New Territories Exempted House - Small House)	20.4.2018	R1 – R4

Remarks:

- *¹ Application No. A/NE-TKL/520 and A/NE-TKL/586 are at the same location
- *² Application No. A/NE-TKL/521 is one of the similar cases for Applications No. A/NE-TKL/587 and A/NE-TKL/588
- *³ Application No. A/NE-TKL/522 is one of the similar cases for Applications No. A/NE-TKL/588 and A/NE-TKL/589
- *⁴ Application No. A/NE-TKL/523 is one of the similar cases for Applications No. A/NE-TKL/587 and A/NE-TKL/589

Rejection Reasons:

- R1 The proposed development was not in line with the planning intention of the “Agriculture” zone in the Ping Che and Ta Kwu Ling area 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 planning justification in the submission for a departure from the planning intention.

- R2 The application 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 development was susceptible to environmental impacts of the industrial uses in the nearby “Industrial (Group D)” zone. The applicant failed to demonstrate in the submission that the potential industrial/residential interface issue would be mitigated.
- R3 The applicant failed to demonstrate in the submission that the proposed development would not have adverse sewerage impact on the surrounding area.
- R4 Land was still available within the “Village Type Development” (“V”) zones of Ping Che Village where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- R5 The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in a general degradation of the environment of the surrounding area.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Sites fall entirely within the 'VE' of Ping Che Kat Tin;
- (b) the applicant of application No. A/NE-TKL/587 claimed himself to be an indigenous villager of Muk Wu of Ta Kwu Ling Heung whereas the applicants of applications No. A/NE-TKL/588 and 589 claimed themselves to be indigenous villagers of Shan Kai Wat of Ta Kwu Ling Heung. However, their eligibility for Small House concessionary grants has yet to be ascertained;
- (c) the Sites are 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 (2017 to 2026) for Ping Che are 53 and 160 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 applications were made to his office on 6.2.2014.

2. Traffic

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

- (a) he has reservation on the applications. Such type of developments 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 developments outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the applications only involve construction of three Small Houses. He considers that the applications can be tolerated unless they are rejected on other grounds.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) she does not support the applications; and
- (b) there is an "I(D)" zone at the closest distance of about 60m to the west of the Sites. Hence, there are potential industrial/residential interface issues associated with the applications. However, there is no information/assessment in the applications to address this concern.

4. Landscape

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

- (a) she has has some reservation on the applications from the landscape planning point of view;
- (b) the Sites are located in an area of rural landscape character comprising open storages, warehouses, village clusters, scattered woodland patches, tree clusters and farmland (mostly fallow). The Sites are located close to Ping Che Kat Tin and within a fallow farmland; with some trees of common species to its north and south. The Sites are covered by wild vegetation with a few young fruit trees and palms of low amenity value. The proposed Small Houses are not incompatible with the surrounding environment. No trees of significant amenity value will be affected arising from the proposed developments. Nonetheless, as there is no proper construction access linking the Sites to public road, the associated landscape impact on nearby vegetation cannot be assessed; and
- (c) should the applications be approved by the Board, landscape condition is not recommended as the footprint of each Small House occupies almost the entire site leaving inadequate planting space for landscape works within the Sites.

5. Sewerage

5.1 Comments of the DEP:

- (a) she does not support the applications; and
- (b) there is an existing sewerage in Ping Che Kat Tin and the applicants propose sewer connection for the sewage disposal of the proposed Small Houses (**Drawing A-4**). However, the level drop in between is marginal. To ensure no insurmountable problem for sewage disposal to public sewer by gravity means, the applicants should provide further details (including sewer size, manhole cover level, manhole incoming and outgoing levels) with due regard to the local topography.

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

- (a) there is public sewerage in Ping Che Kat Tin located more than 40m away from the Sites. DEP should be consulted regarding the sewage treatment/disposal facilities for the proposed development. A sewerage proposal should be submitted for approval if sewer connection to public sewerage is required; and
- (b) the applicants should note his comments on the sewerage proposal as follows:
 - (i) the details (invert level, gradient, general sections, size etc.) of the proposed sewer and manhole shall be provided;
 - (ii) the invert level at both the upstream and downstream ends of the proposed sewer should be indicated on plan;
 - (iii) the cover level, invert level and disconnecting trap invert level of the manholes /

- terminal manhole should be shown on plan;
- (iv) the sewage collected from within the development sites should be conveyed to a terminal manhole constructed as close as possible to the lot boundary before being discharged to the nearby public sewage manhole;
 - (v) the terminal manholes should be maintained by the lot owners;
 - (vi) all the proposed sewerage works except the sewer at the Government land near the public sewer, whether within or outside the lot boundary should be constructed and maintained by the lot owners at their own expense;
 - (vii) consideration should be given to adopt polyethylene (PE100) pipe for buried sewage pipe beyond the sewage terminal manhole;
 - (viii) for works to be undertaken outside the lot boundary, the applicants should obtain prior consent and agreement from DLO/N, LandsD and/or relevant private lot owners;
 - (ix) it is noted that the newly constructed sewers would pass through the existing private lots. The applicants should obtain prior consent and agreement from the relevant private lot owners regarding the construction works and the future maintenance responsibility;
 - (x) the applicants should make good all the adjacent affected areas upon the completion of the sewer manhole and the associated sewers;
 - (xi) comments from DEP on the sewerage proposal should be sought;
 - (xii) the applicants should conduct site checking to confirm invert levels of the public sewerage to which the sewage from the Sites is proposed to be discharged;
 - (xiii) the applicants should construct and maintain the proposed sewerage works properly and rectify the system if it is found to be inadequate or ineffective during operation. In addition, regular maintenance should be carried out by the lot owners/developer to avoid blockage of sewers;
 - (xiv) upon completion of the works, the applicants should apply to DSD for audit of the drainage connections, using an "HBP1" form. The applicants may visit DSD's website www.dsd.gov.hk for details of connection audit fees and arrangements. Then, a joint inspection with this division shall be arranged and those as-built drainage connection records and materials certificates should be furnished to this division for our record purpose; and
 - (xv) the existing drainage facilities, watercourse, river, channel and the like should not be affected and obstructed by the construction materials, waste or debris from the proposed developments.

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

the proposed routing of the sewer connection would encroach upon the tree protection zones of a row of trees located on Government land, with a number of the trees being large and mature. The applicants should review whether the proposed routing would

impose any adverse impact on the trees in question. Any impacts on the trees, in particular the large and mature trees, should be avoided as far as possible.

5.4 Comments of the CTP/UD&L, PlanD:

the alignment of sewerage proposal will likely encroach onto the tree protection zone of some mature trees located to the north of the Sites. The associated excavation and trenching works will damage tree roots, tree health/stability will be undermined and will lead to potential tree hazard to public safety. However, there is no detailed tree information and impact assessment on these trees submitted in the applications.

5.5 Comments of the DLO/N, LandsD:

subject to no adverse comments from CE/MN, DSD and DEP on the sewage proposal and no site constraints, he has no objection to the sewers passing through the Government land. Prior consent for excavation works to be conducted on Government land is required from his office and the applicants are required to take up the maintenance responsibilities of the sewers concerned.

6. Drainage

Comments of the CE/MN, DSD:

- (a) he has no objection to the applications from public drainage viewpoint;
- (b) should the applications be approved, a condition should be included to request the applicants to submit and implement a drainage proposal for the Sites to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (c) the applicants should be advised of the following:
 - (i) the Sites are in the vicinity of an existing streamcourse. The applicants shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicants to his satisfaction; and
 - (ii) the applicants should be reminded to minimize the possible adverse environmental impacts on the existing streamcourse in their design and during construction. DEP and DAFC should be consulted on possible environmental and/or ecological impacts of the developments.

7. Nature Conservation and Agriculture

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

- (a) she does not support the applications from the agriculture point of view;
- (b) the Sites are on a piece of vacant land overgrown with grass. Active agricultural activities can be found in the vicinity, thus the Sites possess high potential for agricultural rehabilitation; and

- (c) there is a watercourse near the Sites. Should the applications be approved, precautionary measures to avoid any disturbance and pollution to the stream should be provided.

8. Fire Safety

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

- (a) he 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.

9. Water Supply

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

- (a) he has no objection to the applications;
- (b) for provision of water supply to the developments, the applicants may need to extend the inside services to nearest suitable Government water mains for connection. The applicants 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 Sites are located within WSD flooding pumping gathering ground.

10. 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. The Vice-chairman of Ta Kwu Ling District Rural Committee, the incumbent North District Council member of the subject constituency, the Indigenous Inhabitant Representative and the Resident Representative of Ping Che have no comment on the applications; and
- (b) the nearby watercourse is not maintained by his office and only minor and ad hoc improvement works for the natural watercourse would be implemented under request if necessary.

11. Demand and Supply of Small House Site

According to DLO/N's records, the total number of outstanding Small House applications for Ping Che Village (including Ping Che, Ping Che Kat Tin and Ping Che Yuen Ha) is 53 while the 10-year Small House demand forecast for the same village is 160. According to the latest estimate by PlanD, about 4.22 ha (equivalent to about 177 Small House sites) of land are available within the "V" zones of Ping Che Village. There is insufficient land in the "V" zones of Ping Che Village to meet the future demand of Small Houses (i.e. about 5.33 ha of land which is equivalent to 213 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of CE/C, WSD on the following:
- (i) 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; and
 - (ii) the Site is located within WSD flooding pumping gathering ground;
- (b) to note the comments of D of FS that the applicant should observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (c) to note the comments of DEP that the level drop between the Site and the existing sewerage in Ping Che Kat Tin is marginal. To ensure no insurmountable problem for sewage disposal to public sewer by gravity means, the applicant should provide further details (including sewer size, manhole cover level, manhole incoming and outgoing levels) with due regard to the local topography;
- (d) to note the comments of DLO/N, LandsD that should the sewers passing through the Government land, prior consent for excavation works to be conducted on Government land is required from his office and the applicant is required to take up the maintenance responsibilities of the sewers concerned;
- (e) to note the comments of CE/MN, DSD on the following:
- (i) the applicant should comply with the following:
 - the Site is in the vicinity of an existing streamcourse. The applicant shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction; and
 - the applicant should be reminded to minimize the possible adverse environmental impacts on the existing streamcourse in his design and during construction. DEP and DAFC should be consulted on possible environmental and/or ecological impacts of the development. Furthermore, as natural watercourses in village areas are within the jurisdiction of HAD under ETWB TCW No. 14/2004, comments from HAD should be sought;
 - (ii) there is public sewerage in Ping Che Kat Tin located more than 40m away from the Site. DEP should be consulted regarding the sewage treatment/disposal facilities

for the proposed development. A sewerage proposal should be submitted for approval if sewer connection to public sewerage is required; and

(iii) the applicant should note the comments on the sewerage proposal:

- the details (invert level, gradient, general sections, size etc.) of the proposed sewer and manhole shall be provided;
- the invert level at both the upstream and downstream ends of the proposed sewer should be indicated on plan;
- the cover level, invert level and disconnecting trap invert level of the manholes / terminal manhole should be shown on plan;
- the sewage collected from within the development site should be conveyed to a terminal manhole constructed as close as possible to the lot boundary before being discharged to the nearby public sewage manhole;
- the terminal manholes should be maintained by the lot owner;
- all the proposed sewerage works except the sewer at the Government land near the public sewer, whether within or outside the lot boundary should be constructed and maintained by the lot owner at their own expense;
- consideration should be given to adopt polyethylene (PE100) pipe for buried sewage pipe beyond the sewage terminal manhole;
- for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N, LandsD and/or relevant private lot owners;
- it is noted that the newly constructed sewers would pass through the existing private lots. The applicant should obtain prior consent and agreement from the relevant private lot owners regarding the construction works and the future maintenance responsibility;
- the applicant should make good all the adjacent affected areas upon the completion of the sewer manhole and the associated sewers;
- comments from DEP on the sewerage proposal should be sought;
- the applicant should conduct site checking to confirm invert levels of the public sewerage to which the sewage from the Site is proposed to be discharged;
- the applicant should construct and maintain the proposed sewerage works properly and rectify the system if it is found to be inadequate or ineffective during operation. In addition, regular maintenance should be carried out by the lot owner/developer to avoid blockage of sewers;
- upon completion of the works, the applicant should apply to DSD for audit of the drainage connections, using an "HBP1" form. The applicant may visit DSD's website www.dsd.gov.hk for details of connection audit fees and arrangements. Then, a joint inspection with this division shall be arranged and

those as-built drainage connection records and materials certificates should be furnished to this division for our record purpose; and

- the existing drainage facilities, watercourse, river, channel and the like should not be affected and obstructed by the construction materials, waste or debris from the proposed development;

(f) to note comments of DAFC on the following:

- (i) the proposed routing of the sewer connection would encroach upon the tree protection zones of a row of trees located on Government land, with a number of the trees being large and mature. The applicant should review whether the proposed routing would impose any adverse impact on the trees in question. Any impacts on the trees, in particular the large and mature trees, should be avoided as far as possible; and
- (ii) there is a watercourse near the Site. Precautionary measures to avoid any disturbance and pollution to the stream should be provided;

(g) to note the comments of CTP/UD&L that the alignment of sewerage proposal will likely encroach onto the tree protection zone of some mature trees located to the north of the Sites. The associated excavation and trenching works will damage tree roots, tree health/stability will be undermined and will lead to potential tree hazard to public safety; and

(h) 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.