

**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

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/NE-TKL/207	Proposed New Territories Exempted House (NTEH) (Small House)	28.6.2002	A1, A2 & A3
A/NE-TKL/214	Proposed New Territories Exempted House (NTEH) (Small House)	13.9.2002	A1, A2 & A3
A/NE-TKL/216	Proposed New Territories Exempted House (NTEH) (Small House)	27.9.2002	A1, A2 & A3
A/NE-TKL/218	Proposed New Territories Exempted House (NTEH) (Small House)	11.10.2002	A1, A2 & A3
A/NE-TKL/221	Proposed New Territories Exempted House (NTEH) (Small House)	8.11.2002	A1, A2 & A3
A/NE-TKL/222	Proposed New Territories Exempted House (NTEH) (Small House)	8.11.2002	A1, A2 & A3
A/NE-TKL/223	Proposed New Territories Exempted House (NTEH) (Small House)	8.11.2002	A1, A2 & A3
A/NE-TKL/359	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A3, A4, A5 & A6
A/NE-TKL/360	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A3, A4, A5 & A6
A/NE-TKL/361	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A3, A4, A5 & A6
A/NE-TKL/466	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A3 & A4
A/NE-TKL/493	Proposed House (New Territories Exempted House - Small House)	12.12.2014	A2, A3, A4 & A7

Approval Conditions

- A1 The provision of drainage facilities
- A2 The submission and implementation of landscaping proposals
- A3 Commencement clause
- A4 The submission and implementation of drainage proposals
- A5 The provision of firefighting access, water supplies for fire fighting and fire service installations
- A6 The submission and implementation of tree preservation and landscape proposals
- A7 The provision of septic tank

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-TKL/406 [^]	Proposed House (New Territories Exempted House - Small House)	7.12.2012	R1 & R2
A/NE-TKL/407 [*]	Proposed House (New Territories Exempted House - Small House)	7.12.2012	R1 & R2
A/NE-TKL/414 ^{**}	Proposed House (New Territories Exempted House - Small House)	21.12.2012	R1 & R2
A/NE-TKL/415 ^{**}	Proposed House (New Territories Exempted House - Small House)	21.12.2012	R1 & R2
A/NE-TKL/416 ^{**}	Proposed House (New Territories Exempted House - Small House)	21.12.2012	R1 & R2
A/NE-TKL/420 [#]	Proposed House (New Territories Exempted House - Small House)	26.4.2013 (on review)	R1 & R2
A/NE-TKL/421 [@]	Proposed House (New Territories Exempted House - Small House)	26.4.2013 (on review)	R1 & R2
A/NE-TKL/457 [*]	Proposed House (New Territories Exempted House - Small House)	13.12.2013	R1 & R2
A/NE-TKL/458 [^]	Proposed House (New Territories Exempted House - Small House)	13.12.2013	R1 & R2
A/NE-TKL/467 [#]	Proposed House (New Territories Exempted House - Small House)	1.8.2014 (on review) 8.7.2015 (appeal dismissed)	R1 & R2
A/NE-TKL/468 [@]	Proposed House (New Territories Exempted House - Small House)	1.8.2014 (on review) 8.7.2015 (appeal dismissed)	R1 & R2
A/NE-TKL/471 ^{**}	Proposed House (New Territories Exempted House - Small House)	23.5.2014	R1, R2 & R4
A/NE-TKL/495 [@]	Proposed House (New Territories Exempted House - Small House)	10.4.2015 (on review)	R1 & R3
A/NE-TKL/496 [#]	Proposed House (New Territories Exempted House - Small House)	10.4.2015 (on review)	R1 & R3
A/NE-TKL/541 ^{@\$}	Proposed House (New Territories Exempted House - Small House)	19.8.2016 (on review)	R1 & R2
A/NE-TKL/551 ^{**}	Proposed House (New Territories Exempted House - Small House)	26.8.2016	R1 & R2

Remarks

[@]: The site of applications No. A/NE-TKL/421, 468, 495 and 541 involve the same site

[^]: The site of applications No. A/NE-TKL/406 and 458 involve the same site

^{*}: The site of applications No. A/NE-TKL/407 and 457 involve the same site

^{**}: The site of the application No. A/NE-TKL/471 includes the sites of applications No. A/NE-TKL/414, 415, 416 and 551.

[#]: The site of applications No. A/NE-TKL/420, 467 and 496 involve the same site

^{\$}: The appeal of the application No. A/NE-TKL/541 was considered by the Appeal Board on 26.9.2017.

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 planning justification in the current submission for a departure from the planning intention.
- R2 Land was still available within the “Village Type Development” zone of Lei Uk Tsuen where land was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.
- R3 It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructure and services.
- R4 The proposed development would involve clearance of existing vegetation and would affect the existing natural landscape on the surrounding environment. Approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) the footprints of the proposed Small Houses fall within the 'VE' of Chow Tin Tsuen, Fung Wong Wu and Lei Uk;
- (b) the applicants of applications No. A/NE-TKL/591 and 592 claimed themselves to be indigenous villagers of Ping Che of Ta Kwu Ling Heung. The applicant of application No. A/NE-TKL/593 claimed himself to be an indigenous villager of Wo Keng Shan of Ta Kwu Ling Heung. The applicant of application No. A/NE-TKL/594 claimed himself to be an indigenous villager of Shan Kai Wat of Ta Kwu Ling Heung. However, the applicants' 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 (2016 to 2025) for Lei Uk Tsuen are 76 and 450 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 of applications No. A/NE-TKL/591 to 593 were made to his office on 2.7.2014 whereas the Small House application of application No. A/NE-TKL/594 was made to his office on 20.1.2015.

2. Traffic

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

- (a) she 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 application only involve construction of four Small Houses. She 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) in view of the small scale of the proposed developments, the applications alone are 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 no objection on the applications from the landscape planning perspective;
- (b) according to the latest aerial photo of 2018, the Sites are situated in an area of rural landscape character comprising of village houses, active and abandoned farmlands, scattered tree groups and open storages at a further distance to the east. The proposed four adjoining Small Houses are near the eastern fringe of Lei Uk Tsuen and they are not incompatible with the surrounding area;
- (c) her site record in May 2018 reveals that the Sites are located within a large area of abandoned farmland covered with wild grasses. No trees are found within the Sites. Significant adverse impact to the landscape resources arising from the proposed developments is not anticipated. Permissions were granted to some Small Houses (currently vacant sites) adjacent to the east and west of the Sites within the “AGR” zone in the last few years; and
- (d) Should the applications be approved, the approval condition on submission and implementation of landscape proposal is considered impracticable as the footprints of the Small Houses almost occupied the entire Sites leaving inadequate space for landscape works.

5. Drainage

Comments of the Chief Engineer/Mainland North, Drainage Services Department (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 they will not cause adverse drainage impact to the adjacent area;
- (c) the Sites are 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) a drainage plan should be provided clearly showing the size, levels and routes of the proposed drainage. The details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel, catchpits and discharge structure shall be provided;
 - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - (iv) a catchpit with covers should be provided where there is a change of direction of the channel/drain. The details of the catchpit with covers shall be provided;

- (v) catchpits with sand trap shall be provided at the outlets of the proposed drainage system. The details of the catch pit with sand trap should be provided;
- (vi) the applicants 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 applicants should also ensure that the flow from the Sites will not overload the existing drainage system;
- (vii) the applicants are 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 Sites to be intercepted by the drainage system of the Sites with details to be agreed by DSD, unless justified not necessary;
- (viii) if the existing drainage facilities to which the applicants proposed to discharge the storm water from the Sites is not maintained by DSD, the applicants 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 applicants are reminded that all existing flow paths as well as the run-off falling onto and passing through the Sites should be intercepted and disposed of via proper discharge points. The applicants 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 Sites any time during or after the works;
- (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained properly by the applicants and rectify the system is it is found to be inadequate or ineffective during operation at their own expense;
- (xi) for works to be undertaken outside the lot boundary, the applicants should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
- (xii) the applicants should make good all the adjacent affected areas upon the completion of the drainage works;
- (xiii) the applicants shall allow all time free access for the Government and its agent to conduct site inspection on their completed drainage works;
- (xiv) the applicant and the successive lot owners shall allow connections from the adjacent lots to the completed drainage works on Government Land when so required; and
- (xv) photos should be submitted clearly showing the current conditions of the areas and the flow paths around the Sites and the proposed/existing drainage from the discharge point(s) within the Sites to the downstream existing watercourses.

6. 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.

7. Water Supply

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

- (a) he has no objection to the applications; and
- (b) for provision of water supply to the development, 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.

8. Agriculture

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

- (a) she does not support the applications from the agriculture point of view; and
- (b) the Sites are abandoned land overgrown with grasses. Active agricultural activities can be found in the vicinity. Agricultural infrastructure such as road access, water supply and vegetable marketing cooperative society are available. The Sites possess 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 Vice-chairman of Ta Kwu Ling District Rural Committee, the North District Council (NDC) member of the subject constituency, the Indigenous Inhabitant Representative (IIR) and the Resident Representative of Lei Uk have no comment on the applications. The IIR of Lei Uk provided additional comments that the applications are submitted by villagers for Small House developments.

10. Demand and Supply of Small House Site

According to DLO/N's records, the total number of outstanding Small House applications for Lei Uk Tsuen is 76 while the 10-year Small House demand forecast for the same village is 450. According to the latest estimate by PlanD, about 2.33 ha (equivalent to about 93 Small House sites) of land are available within the "V" zone of Lei Uk Tsuen. There is insufficient land in the "V" zone of Lei Uk Tsuen to meet the future demand of Small Houses (i.e. about 13.2 ha of land which is equivalent to 526 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 applicants may need to extend the inside services to 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 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 applicants 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) the Sites are 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;
 - a drainage plan should be provided clearly showing the size, levels and routes of the proposed drainage. The details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel, catchpits and discharge structure shall be provided;
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 - the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - a catchpit with covers should be provided where there is a change of direction of the channel/drain. The details of the catchpit with covers shall be provided;
 - catchpits with sand trap shall be provided at the outlets of the proposed drainage system. The details of the catch pit with sand trap should be provided;
 - the applicants 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 applicants should also ensure that the flow from the Sites will not overload the existing drainage system;
 - the applicants are 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 Sites to be intercepted by the drainage system of the Sites with details to be agreed by DSD, unless justified not necessary;
 - if the existing drainage facilities to which the applicants proposed to discharge the storm water from the Sites is not maintained by DSD, the applicants 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 applicants are reminded that all existing flow paths as well as the run-off falling onto and passing through the Sites should be intercepted and disposed of via proper discharge points. The applicants 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 Sites any time during or after the works;
 - the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained properly by the applicants and rectify the system if it is found to be inadequate or ineffective during operation at their own expense;
 - for works to be undertaken outside the lot boundary, the applicants should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
 - the applicants should make good all the adjacent affected areas upon the completion of the drainage works;
 - the applicants shall allow all time free access for the Government and its agent to conduct site inspection on their completed drainage works;
 - the applicant and the successive lot owners shall allow connections from the adjacent lots to the completed drainage works on Government Land when so required; and
 - photos should be submitted clearly showing the current conditions of the areas and the flow paths around the Sites and the proposed/existing drainage from the discharge point(s) within the Sites to the downstream existing watercourses;
- (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.