

**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.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) the application sites fall within the ‘VE’ of Tong Fong;
- (b) the applicants have been certified by the respective Indigenous Inhabitants Representative in statutory declaration that the applicants are indigenous villagers of Lei Uk (i.e. applicants of No. A/NE-TKL/611 & 613) and Fung Wong Wu (i.e. applicant of No. A/NE-TKL/612) in Ta Kwu Ling Heung. Their Small House applications have been approved in principle by his office in 2017 and are pending for execution;
- (c) the Sites are not covered by any Modification of Tenancy/Building Licence; and
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand forecast for Tong Fong (2016 to 2025) are 27 and 134 respectively. The figures of the 10-year Small House demand forecast were provided by the relevant Indigenous Inhabitant Representatives without any supporting evidence and his office is not in a position to verify the forecasts.

2. Traffic

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

- (a) she has reservation on the applications. 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 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. She considers that the applications 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 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 to the applications from the landscape planning perspective;
- (b) according to aerial photo of 2018, the Sites are located in the rural landscape character comprises village houses, temporary structures and clustered tree groups. The proposed Small Houses are considered not incompatible with the surrounding environment;
- (c) the Sites are mostly hard paved and no significant landscape resources of high sensitivity are observed within the Sites. Moreover, there are at least 13 approved planning applications for development of Small Houses in the close proximity of the Sites. Significant adverse impact on existing landscape resources arising from the proposed developments are not anticipated; and
- (d) in consideration of the limited space within the application boundaries, it is considered impractical to impose a landscape condition.

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 each of 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 applicant should be reminded that the application site is subject to flooding risk as the existing open channel on Lot No. 1093 in D.D. 82 was blocked by landfilling in 2016. If the existing affected drainage channel has not been rectified to its original condition, any discharge from the new developments in Tong Fong Village to this affected drainage channel is not supported as it would inevitably further increase the flooding risk in the village.

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 applications referred by LandsD.

7. Water Supply

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

- (a) he has no specific comment on 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):

the agriculture activities are active in the vicinity of the Sites and agricultural infrastructures such as road access and water source are available. As the Sites possess potential for agricultural rehabilitation, the applications are not supported from agricultural point of view.

9. District Officer's Comments

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

he has consulted the locals regarding the applications. The Chairperson 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 Tong Fong Village, had no comments on the proposal.

10. Demand and Supply of Small House Site

According to DLO/N's records, the total number of outstanding Small House applications for Tong Fong is 27 while the 10-year Small House demand forecast for the same village is 134. According to the latest estimate by PlanD, about 1.39 ha (equivalent to about 55 Small House sites) of land are available within the "V" zone of Tong Fong. There is insufficient land in the "V" zone of Tong Fong to meet the future demand of Small Houses (i.e. about 4.025 ha of land which is equivalent to 161 Small House sites).

Previous S.16 Applications

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-TKL/393 ^{*1}	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A3
A/NE-TKL/400 ^{*2}	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A3
A/NE-TKL/425 ^{*3}	Proposed House (New Territories Exempted House - Small House)	3.1.2013	A1, A2 & A3

Remarks:

- *1 Previous case of application no. A/NE-TKL/611 only
 *2 Previous case of application no. A/NE-TKL/613 only
 *3 Previous case of application no. A/NE-TKL/612 only

Approval Conditions:

- A1 The submission and implementation of landscape proposal
 A2 The submission and implementation of drainage proposal
 A3 Commencement clause

Rejected Applications

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-TKL/317	Temporary Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years	11.9.2009 (on review)	R1, R2 & R3
A/NE-TKL/330	Temporary Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years	18.12.2009	R1, R2, R3 & R4

Remarks:

The sites of the application Nos. A/NE-TKL/317 and A/NE-TKL/330 include the sites of application Nos. A/NE-TKL/611-613.

Rejection Reasons

- R1 The 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 agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justifications were provided in the submission for a departure from the planning intention, even on a temporary basis.
- R2 The application did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that no previous planning approval had been granted to the application site and there were adverse departmental comments on the application.
- R3 There were local objection against the application.
- R4 The proposed use would generate adverse environmental and landscape impacts on the surrounding areas.

**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 & Ta Kwu Ling Area**

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-TKL/367* ¹	Proposed House (New Territories Exempted House (NTEH) - Small House)	5.8.2011	A1, A2, A4 & A5
A/NE-TKL/368	Proposed House (New Territories Exempted House (NTEH) - Small House)	5.8.2011	A1, A2, A4 & A5
A/NE-TKL/372	Proposed House (New Territories Exempted House (NTEH) - Small House)	21.10.2011	A1, A2, A3 & A5
A/NE-TKL/393* ²	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A5
A/NE-TKL/394	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A5
A/NE-TKL/395	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A5
A/NE-TKL/398	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A5
A/NE-TKL/399	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A5
A/NE-TKL/400* ³	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A5
A/NE-TKL/401	Proposed House (New Territories Exempted House - Small House)	11.1.2013	A1, A2 & A5
A/NE-TKL/424	Proposed House (New Territories Exempted House - Small House)	1.3.2013	A1, A2 & A5
A/NE-TKL/425* ⁴	Proposed House (New Territories Exempted House - Small House)	1.3.2013	A1, A2 & A5
A/NE-TKL/429	Proposed House (New Territories Exempted House - Small House)	3.5.2013	A1, A2 & A5
A/NE-TKL/430	Proposed House (New Territories Exempted House - Small House)	3.5.2013	A1, A2 & A5

A/NE-TKL/431	Proposed House (New Territories Exempted House - Small House)	3.5.2013	A1, A2 & A5
A/NE-TKL/432	Proposed House (New Territories Exempted House - Small House)	3.5.2013	A1, A2 & A5
A/NE-TKL/433	Proposed House (New Territories Exempted House - Small House)	3.5.2013	A1, A2 & A5
A/NE-TKL/435	Proposed House (New Territories Exempted House - Small House)	21.6.2013	A1, A2 & A5
A/NE-TKL/469 ^{*5}	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A1, A2 & A5
A/NE-TKL/507 ^{*1}	Proposed House (New Territories Exempted House - Small House)	5.6.2015	A1, A2, A5 & A6
A/NE-TKL/556 ^{*5}	Proposed House (New Territories Exempted House - Small House)	13.1.2017	A2, A5 & A6

Remarks

- *1: The site of application no. A/NE-TKL/367 and A/NE-TKL/507 involve the same site.
- *2: Application no. A/NE-TKL/393 is one of the similar cases for Application No. A/NE-TKL/612 and A/NE-TKL/613.
- *3: Application no. A/NE-TKL/400 is one of the similar cases for Application No. A/NE-TKL/611 and A/NE-TKL/612.
- *4: Application no. A/NE-TKL/425 is one of the similar cases for Application No. A/NE-TKL/611 and A/NE-TKL/613.
- *5: The site of application no. A/NE-TKL/469 and A/NE-TKL/556 involve the same site.

Approval Conditions:

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

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-TKL/576	Proposed House (New Territories Exempted House (NTEH) - Small House)	22.12.2017	R1 & R2

Rejection Reasonss

- R1 The proposed Small House 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 land was still available within the “Village Type Development” zone of Tong Fong Village 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.

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. the Sites are in an area where no public sewerage connection is available; and
 - ii. the applicant should be reminded that the application site is subject to flooding risk as the existing open channel on Lot No. 1093 in D.D. 82 was blocked by landfilling in 2016. If the existing affected drainage channel has not been rectified to its original condition, any discharge from the new developments in Tong Fong Village to this affected drainage channel is not supported as it would inevitably further increase the flooding risk in the village.
- (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.