

Relevant Revised 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 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) 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.

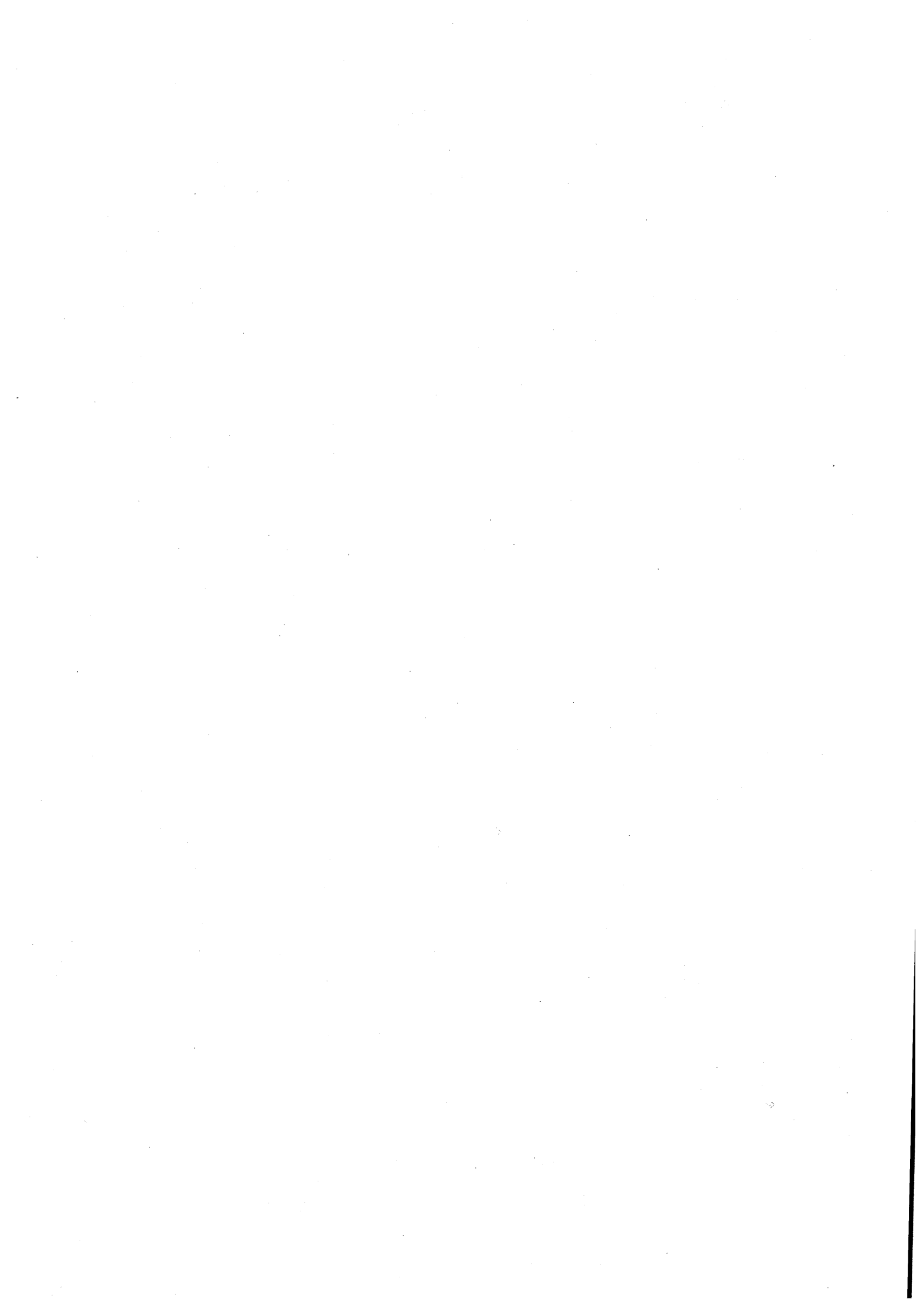
**Previous Applications within the same "Agriculture" zone
on the Ting Kok Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TK/377	Proposed House (New Territories Exempted House – Small House)	6.1.2012	A1 – A4

Approval Conditions

- A1. The submission and implementation of landscape proposal
- A2. The submission and implementation of drainage proposal
- A3. The provision of fire fighting access, water supplies and fire service installations
- A4. The setting back of the western corner of the application site to avoid encroachment onto the existing footpath



Similar s. 16 Applications
Within the same "Agriculture" Zone on the Ting Kok Outline Zoning Plan

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TK/156	Proposed House (NTEH— Small House)	21/03/2003	A1,A2
A/NE-TK/282	Proposed House (NTEH— Small House)	07/08/2009	A1-A4
A/NE-TK/302	Proposed House (NTEH— Small House)	28/05/2010	A1-A3
A/NE-TK/342	Proposed House (New Territories Exempted House - Small House)	28/1/2011	A2, A3
A/NE-TK/378	Proposed Two Houses (New Territories Exempted Houses - Small Houses)	6/1/2012	A1-A3
A/NE-TK/381	Proposed House (New Territories Exempted House - Small House)	24/2/2012	A1-A3
A/NE-TK/460	Proposed House (New Territories Exempted House - Small House)	13/12/2013	A1, A2
A/NE-TK/461	Proposed House (New Territories Exempted House - Small House)	13/12/2013	A1, A2
A/NE-TK/503	Proposed House (New Territories Exempted House - Small House)	04/04/2014	A1, A2

Approval Conditions

- A1. the submission and implementation of landscape proposal.
- A2. the submission and implementation of drainage proposal.
- A3. the provision of fire fighting access, water supplies and fire service installations.
- A4. the re-provisioning of the existing footpath within the site.

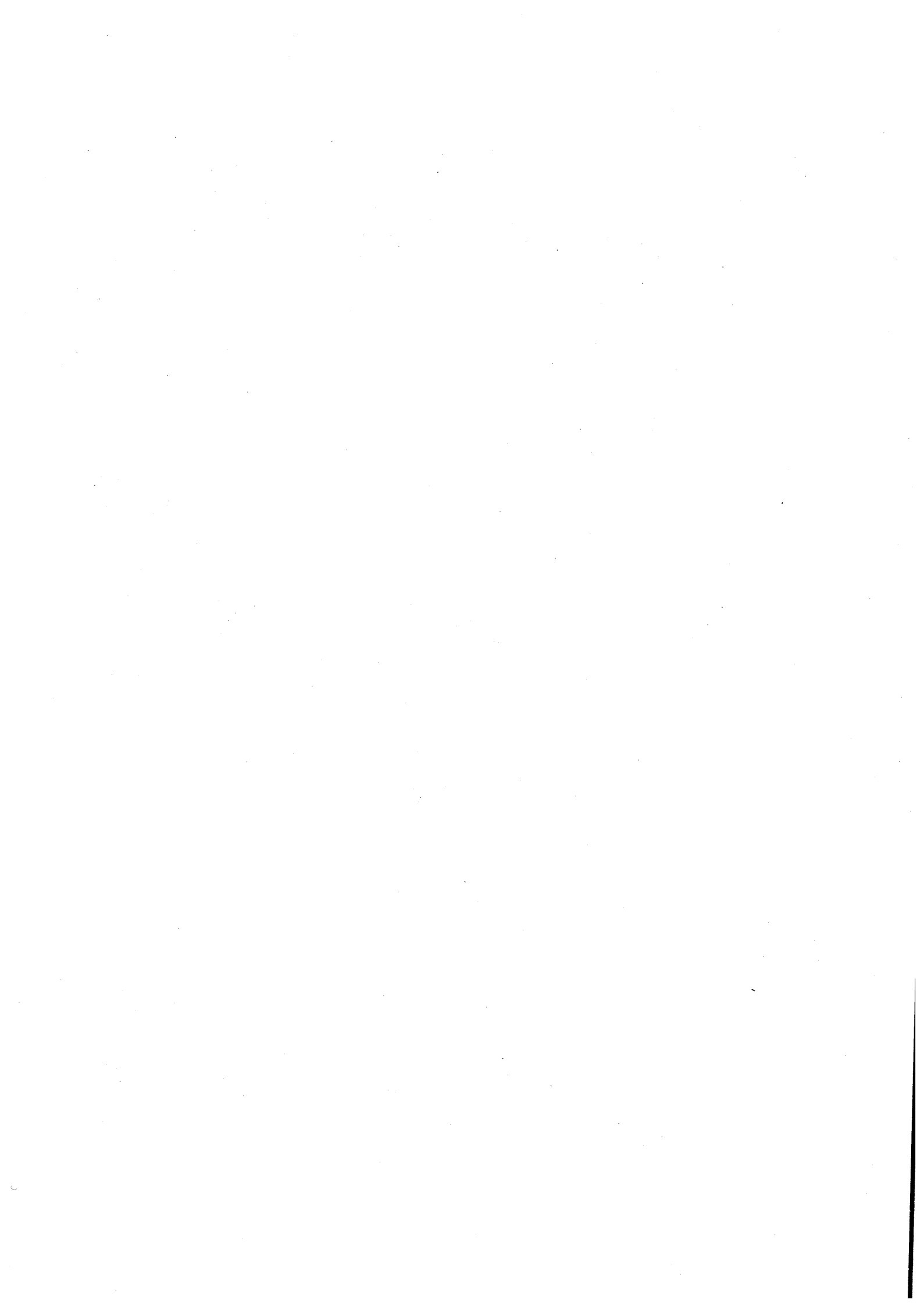
Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-TK/150	Proposed House (NTEH – Small House)	17/01/2003	R1- R4
A/NE-TK/364	Proposed House (NTEH – Small House)	05/08/2011	R1, R7
A/NE-TK/371	Proposed House (NTEH – Small House)	21/10/2011	R4, R5
A/NE-TK/590	Proposed House (NTEH – Small House)	30/09/2016	R1, R6 – R8
A/NE-TK/617	Proposed House (NTEH – Small House)	28/07/2017	R1, R8

Rejection Reasons

- R1. The proposed NTEH (Small House) development was not in line with the planning intention of the “AGR” zone which was to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation and other agricultural purpose. No strong justification had been submitted by the applicant for a departure from such planning intention.
- R2. The proposed NTEH (Small House) development did not comply with the interim criteria for consideration of application for NTEH/Small House development in the New Territories in that the application site was located outside both the ‘VE’ and the ‘V’ zone of Po Sam Pai Village and San Tau Kok Village.
- R3. There was no information in the submission to demonstrate that land for NTEH/Small House development was not available within the “V” zone of the applicant’s own village and other recognized villages in Tai Po.

- R4. The approval of the application would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would result in the encroachment of agricultural land with high potential for agricultural rehabilitation, causing a general degradation of the rural environment of the area.
- R5. The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories as more than 50% of the footprint of the proposed Small House was outside the "V" zone and the village environs of any recognised village.
- R6. The proposed development 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 would have adverse landscape and geotechnical impacts on the surrounding areas
- R7. The approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in further encroachment onto the woodland surrounding the area and a general degradation of the environment and landscape quality of the area.
- R8. Land was still available within the "V" zone of Po Sam Pai which is primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within "V" zone for more 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/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) he has no objection to the application;
- (b) over 50% of the footprint of the proposed Small House falls within the 'VE' of Po Sam Pai;
- (c) the applicant claimed himself as an indigenous villager (IV) of Po Sam Pai. However, his eligibility of Small House grant has yet to be ascertained;
- (d) the Site falls on an Old Schedule lot under Block Government Lease (demised for agricultural use). The applicant is the registered owner of the Site and the Small House application has been received by LandsD;
- (e) the Site is not covered by any Modification of Tenancy or Building Licence;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Po Sam Pai	55	170
San Tau Kok	15	54

(* The figures are estimated and provided by the concerned Indigenous Inhabitant Representative (IIR) of Po Sam Pai and San Tau Kok in December 2016 and December 2012 respectively. The information so obtained is not verified in any way by his Office.)

- (g) if and after planning approval has been granted by the Board, LandsD will process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto; and
- (h) with respect to any interface issue of an existing footpath, it will be dealt with when the application is due for processing.

2. **Traffic**

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

- (a) no in-principle objection to the application from traffic engineering point of view; and
- (b) the existing track road near the Site is not under Transport Department's management. The land status, management and maintenance responsibility of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. **Sewerage**

Comments of the Director of Environmental Protection (DEP):

- In view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.

4. **Drainage**

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

- (a) no objection in principle to the application from public drainage viewpoint;
- (b) if the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of the Director of Drainage Services or of the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from uphill areas surrounding the Site. The proposed development is located on the unpaved ground and on slope. It will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus aggravating flooding risk in the area. The applicant should take into account the above when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. DSD would not assist the lot owner/developer in his drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent

areas should not be adversely affected. In particular, a minimum clearance of 3m should be maintained between the proposed development and the top of the embankment of existing stream courses/ponds/rivers; and

- (e) there is no existing public sewerage in the vicinity of the Site. DEP should be consulted regarding the sewage treatment/disposal aspects and the provision of septic tank.

5. **Water Supply**

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

- (a) no objection to the application; and
- (b) for provision of water supply to the proposed development, the applicant may need to extend the inside services to the 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 shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

6. **Fire Safety**

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

- (a) 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 the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

7. **Landscape**

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

- (a) some reservations on the application from the landscape planning point of view;
- (b) the Site is situated in an area of rural landscape character comprising of small houses, active farmland, scattered parking areas, scattered tree groups and woodland patches. Although the proposed use is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) the Site is vacant and covered with grasses and groundcovers. One *Citrus reticulata* (柑橘) is found within the Site. Adverse impact on significant landscape resources from the proposed development is not anticipated. However, the Site is situated at the edge of existing mature woodland.

Approval of the application would set an undesirable precedent to similar developments within the "AGR" zone, leading to further encroachment to the woodland. The cumulative effect of approving such applications would result in degradation of the environment; and

- (d) should the application be approved, an approval condition on submission and implementation of a tree preservation and landscape proposal is recommended.

8. **Agricultural**

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

- the Site is overgrown with weeds. Nevertheless, there are active agricultural activities in the vicinity. Agricultural infrastructure such as footpath and water supply are also available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

9. **Demand and Supply of Small House Sites**

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Po Sam Pai and San Tau Kok is 70 while the 10-year Small House demand forecast for the same villages is 224. Based on the latest estimate by the PlanD, about 4.61 ha (or equivalent to about 184 Small House sites) of land are available within the "V" zone of the concerned villages. Therefore, the land available cannot fully meet the future Small House demand of about 7.36 ha (or equivalent to about 294 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that if the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (b) to note the comments of the Commissioner for Transport (C for T) that the existing track road near the Site is not under Transport Department's management. The land status, management and maintenance responsibility of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from uphill areas surrounding the Site. The proposed development is located on the unpaved ground and on slope. It will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus aggravating flooding risk in the area. The applicant should take into account the above when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (ii) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. DSD would not assist the lot owner/developer in his drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m should be maintained between the proposed development and the top of the embankment of existing stream courses/ponds/rivers; and
 - (iii) there is no existing public sewerage in the vicinity of the Site. Director of Environmental Protection should be consulted regarding the sewage treatment/disposal aspects and the provision of septic tank;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for provision of water supply to the proposed development, the applicant may need to extend the inside services to the 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 shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;

- (e) to note the comments of the Director of Fire Services (D of FS) that the applicant should observe 'New Territories Exempted Houses - A Guide to Fire Safety Requirements' published by the Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department; and
- (f) 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.