

Relevant Interim Criteria for Consideration of Application for
New Territories Exempted House/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) 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 Application within the "GB" Zone
on the Approved Tai Tan, Uk Tau and Ko Tong Ha Yeung Outline Zoning Plan No. S/NE-TT/2**

Rejected Application

Application No.	Uses/Development	Date of Consideration (RNTPC/TPB)	Main Reason(s) for Rejection
A/NE-TT/1	Proposed House (New Territories Exempted House - Small House)	08.09.2017	R1 - R5

- R1 The proposed development was not in line with the planning intention of “Green Belt” (“GB”) zone, which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention of the “GB” zone.
- R2 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 development would cause adverse landscape impact on the surrounding area.
- R3 The proposed development did not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the proposed development would involve clearance of existing natural vegetation and affect the existing natural landscape.
- R4 Land was still available within the “ Village Type Development” (“ V”) zone of Ko Tong which was primarily intended for Small House development. It is 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.
- 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 adverse impacts on the natural environment and landscape character of the area.

Detailed Comments from Relevant Government Departments on the Application

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) he has reservation on the application;
- (b) the applicant, Mr. WAN Sze Ki, is an indigenous villager of Ko Tong Village of Sai Kung North Heung, as confirmed by the respective Indigenous Inhabitant Representative;
- (c) the Site under application is on Government land and is not covered by Modification of Tenancy or Building Licence;
- (d) the Small House application was made to his office on 15.8.1990. The Small House application was approved in 2000 where the Site was not covered by any statutory plan at that time, and pending for execution;
- (e) the proposed house site falls wholly within the village 'environs' of Ko Tong Village;
- (f) the proposed house site is on sloping land and is covered by vegetation. An unauthorized track in the vicinity is under land control action by his Office and approval will not be given to the applicant to form or disturb Government land for the formation of new access road to facilitate the applicant's Small House development. His office has reservation on the application since there is ongoing complaint against the unauthorized track and the applicant could not demonstrate how he can make proper access to the Site. If the planning application is not acceptable to the Board, the applicant should identify alternative site for his Small House development;
- (g) should the application be approved, his Office will continue to process the Small House application. 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. Please also note that 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) the number of outstanding Small House applications and the number of 10-year Small House demand forecast for Ko Tong Village (2018-2027) are 31 and 100 respectively. The figures of 10-year Small House demand is estimated and provided by the Indigenous Inhabitant Representative of Ko Tong and the information so obtained is not verified in any way by DLO/TP, LandsD.

2. Traffic

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

- (a) in general, he has reservation on the application;
- (b) such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (c) notwithstanding the above, the application only involves construction of one Small House, he considers that the application can be tolerated unless it is rejected on other grounds; and
- (d) the existing village access on and near the Site is not under TD’s management. The applicant should clarify with the relevant lands and maintenance authorities accordingly regarding the land status, management and maintenance responsibilities of the village access in order to avoid potential land disputes.

3. Drainage

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

- (a) from public drainage viewpoint, he has no objection in-principle to the proposed Small House development. There is no public drain maintained by DSD in the vicinity of the Site. If the application is approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to the satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill area. The proposed development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and its uphill overland flow. 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;
- (b) the applicant should note that he should design the drainage proposal based on the actual site condition for DSD’s comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. He should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed Small House. The Site is located on the unpaved ground and slope area. The proposed development will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk to

surrounding area and the residential premises located at its downhill side. The applicant should take this into account when preparing the drainage proposal. The existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;

- (c) there is no existing public sewerage in the vicinity of the Site. EPD should be consulted regarding the sewage treatment/disposal aspects of the development and the provision of septic tank;
- (d) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owners should be sought;
- (f) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and
- (g) his site inspection revealed that the proposed Small House is in conflict with the existing u-channel, which was constructed by the adjacent Lot 1004, if the application is approved. Please consult the owner of the concerned u-channel and consider to carry out diversion of the u-channel accordingly.

4. Sewerage and Environmental

Comments of the Director of Environmental Protection (DEP):

- (a) he advises that given the small scale of the proposed development, it is unlikely to cause major pollution; and
- (b) the septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person.

5. Fire Safety

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

- (a) he has no in-principle objection to the application; and
- (b) the applicant is reminded to observe "New Territories Exempted Houses – A

Guide to Fire Safety Requirements” published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

6. Water Supply

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

- (a) he has no objection to the application;
- (b) for provision of water supply to the development, the applicant may need to extend his/her 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.

7. Nature Conservation

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

the proposed Site and its vicinity have undergone extensive unauthorized felling of trees and vegetation. The Site is largely paved, but a few trees on Government land will be affected by the proposed Small House and its ancillary works. As the Site is Government land that has been degraded by unauthorized activities, it is more appropriate from nature conservation point of view to allow natural regeneration to take place to facilitate ecological restoration. Approval of this application may set an undesirable precedent for similar illegal acts of environmental damage on Government land and encourage further destruction of an otherwise intact woodland. In view of the above, he has reservation on the application from nature conservation point of view.

8. Landscape

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

- (a) the Site is not the subject of any previous planning application;
- (b) based on the aerial photo taken on 13.3.2018, the Site is situated in an area of rural landscape character comprising of extensive hillside woodland which links up the Sai Kung West Country Park to its west. The main village cluster is to its east at a further distance. According to the “Landscape Value Mapping of Hong Kong 2005”, the Site falls within an area of high landscape and scenic value which comprises of native woodland. Thus, the proposed use is considered incompatible to the surrounding environment;
- (c) according to our site inspection dated 7.12.2018, the Site is currently vacant

with two existing trees *Aporosa dioica* (銀柴) and *Ilex cinerea* (灰冬青) in fair and good condition along the eastern boundary of the Site. According to the proposed layout plan, both trees are in direct conflict with the footprint of the proposed Small House and tree felling is necessary. However, there is no space for landscaping within the Site to alleviate the potential adverse impact to the surrounding environment due to the proposed development. Adverse landscape impact due to the proposed use is expected;

- (d) in addition, comparing the aerial photos taken in 2014 and 2015, it is noted that vegetation clearance had been carried out gradually within the Site. The proposed development, if approved, would encourage similar site modification prior to approval, and would also set an undesirable precedent for other similar applications within the “GB” zone, the cumulative effect would result in general degradation of the surrounding environment and undermine its function to conserve the natural landscape of the area; and
- (e) in view of the above, she has objection to the application from the landscape planning perspective. Should the application be approved, the landscape condition for submission and implementation of landscape proposal is not recommended as the footprint of the proposed Small House covers the entire Site leaving no space for landscaping.

9. Electrical Safety

Comments of the Director of Electrical and Mechanical Services (DEMS):

he has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

10. Demand and Supply of Small House Sites

According to DLO/TP, LandsD’s record for Ko Tong, the total number of outstanding Small House applications is 31 while the 10-year Small House demand forecast (2018-2027) is 100. Based on the latest estimate by PlanD, about 0.78 ha (equivalent to about 31 Small House sites) of land is available within the “V” zone of Ko Tong on the OZP. Although there is sufficient land within the “V” zone to meet the outstanding Small House applications, it cannot fully meet the future Small House demand for about 3.28 ha of land (equivalent to about 131 Small House sites). The proposed Small House footprint falls wholly within the ‘VE’ of Ko Tong.

Recommended Advisory Clauses

- (a) to note the comments of District Lands Officer/Tai Po, Lands Department that should the application be approved, his Office will continue to process the Small House application. 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. Please also note that 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 Commissioner for Transport that the existing village access on and near the Site is not under TD's management. The applicant should clarify with the relevant lands and maintenance authorities accordingly regarding the land status, management and maintenance responsibilities of the village access in order to avoid potential land disputes;

- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that
 - (i) there is no public drain maintained by DSD in the vicinity of the Site;

 - (ii) if the application is approved, the applicant is requested to submit and implement a drainage proposal for the Site to the satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill area. The proposed development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and its uphill overland flow. 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;

 - (iii) the applicant should note that he should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comment from all concerned parties/departments if necessary. He should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed Small House. Please also note that the Site is located on the unpaved ground and slope area. The proposed development will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk to surrounding area and the residential premises located at its downhill side. The applicant should take this into account when preparing the drainage proposal. The existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;

- (iv) there is no existing public sewerage in the vicinity of the Site. Environmental Protection Department should be consulted regarding the sewage treatment/disposal aspects of the development and the provision of septic tank;
 - (v) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
 - (vi) for works to be undertaken outside the lot boundary, prior consent and agreement from District Lands Officer/Tai Po and/or relevant private lot owners should be sought;
 - (vii) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and
 - (viii) his site inspection revealed that the proposed Small House is in conflict with the existing u-channel, which was constructed by the adjacent Lot 1004, if the application is approved. Please consult the owner of the concerned u-channel and consider to carry out diversion of the u-channel accordingly;
- (d) to note the Director of Environmental Protection's advice 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 Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person;
- (e) to note the comments of Director of Fire Services that the applicant should observe "New Territories Exempted Houses – A Guide to Fire Safety Requirements" published by Lands Department (LandsD). Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (f) to note the comments of the Chief Engineer/Construction, Water Supplies Department (WSD) that for provision of fresh water supply to the development, the applicant may need to extend his/her 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;
- (g) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned Site. They should also be reminded to observe the Electricity Supply

Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines; 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.