

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 Applications for Proposed House
(New Territories Exempted House (NTEH) – Small House)
within the “Green Belt” Zone
in the Vicinity of the Site in the Yung Shue O Area**

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-YSO/1	Proposed House (NTEH - Small House)	18.3.2016	R1 – R5
A/NE-YSO/2	Proposed House (NTEH – Small House)	25.8.2017	R1, R3, R5 – R7
A/NE-YSO/3	Proposed House (NTEH – Small House)	25.8.2017	R1, R3, R5 – R7
A/NE-YSO/4	Proposed House (NTEH – Small House)	25.8.2017	R1, R3, R5 – R7

Rejection Reasons

- 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 given in the submission for a departure from the planning intention of the “GB” zone.
- 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 development would cause adverse environmental, landscape, sewerage and geotechnical impacts on the surrounding area.
- R3 Land was still available within the “Village Type Development” (“V”) zone of Yung Shue O Village which was 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.
- R4 The application 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 extensive clearance of existing natural vegetation, affect the existing natural landscape, overstrain the capacity of existing sewerage infrastructure and adversely affect slope stability.
- 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 general degradation of the natural environment and landscape quality of the area.

- R6 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 development would cause adverse landscape impact on the surrounding area.
- R7 The application 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, affect the existing natural landscape and overstrain the capacity of existing sewerage infrastructure.

Comments from Relevant Government Departments on the Application

1. Land Administration

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

- (a) no objection to the application;
- (b) the applicant (Mr. FONG Ho Yin) is an indigenous villager of Yung Shue O Village of Sai Kung North Heung, as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is not covered by Modification of Tenancy or Building Licence;
- (d) the Small House (SH) application was submitted on 6.12.2006 and received by his office;
- (e) if and after planning permission has been given by TPB, LandsD will continue to process the SH application. However, there is no guarantee at this stage that the SH application would be approved. To utilize the land resource and achieve better house alignment in the vicinity, the proposed SH footprint should follow the nearby houses unless there is strong justification not to do so. If the SH 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 SH concerned or approval of the EVA thereto;
- (f) the Site falls wholly within the village environs of Yung Shue O Village;
- (g) the Site does not involve any land control action; and
- (h) the number of outstanding SH applications for Yung Shue O Village is 20 while the 10-year (2017-2026) SH demand forecast is 674 (Note: The figure of 10-year SH demand is estimated and provided by the IIR of Yung Shue O Village and the information so obtained is not verified in any way by DLO/TP, LandsD).

2. 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 LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

3. Geotechnical Aspect

Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) the Site is overlooked by steep natural hillside and meets the alert criteria requiring a Natural Terrain Hazard Study (NTHS). He would tender in-principle objection to the NTEH development proposal, unless the applicant is prepared to undertake a NTHS and to provide suitable mitigation measures, if found necessary, as part of the development. However, this could have significant cost implication and render the development not economically viable. Thus, the applicant may consider looking for an alternative site for the proposed development if found practicable; and
- (b) if the applicant still wishes to proceed with the planning application, he/she is required to submit a Geotechnical Planning Review Report (GPRR) in support of the application and to assess the geotechnical feasibility of the proposed development. The GPRR should include a preliminary geotechnical review of natural terrain hazards, and where necessary, indicate the recommended extent of study area for NTHS and a commitment to undertake the NTHS and to carry out any necessary mitigation measures as part of the development. Other essential contents of a GPRR are given in the attached GEO Advice Note.

4. Traffic

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

- (a) in general, he has reservation on the application. Such type of development should be confined within the “Village Type Development” 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 “Village Type Development” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (b) notwithstanding the above, the subject application only involves development of a SH and C for T considers that this application can be tolerated unless it is rejected on other grounds.

5. 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) 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 existing natural stream, village drains, ditches and the adjacent areas/houses. 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 in the area. The applicant should take this into account when preparing the drainage proposal;
- (c) the proposed development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. 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 of nuisance caused by failure of the systems;
- (d) the applicant should note that he should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer to a 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;
- (e) public sewerage connection is available in vicinity of the Site. However, at present, the sewage of the Yung Shue O is collected by public sewers and conveyed to the existing communal sewage soakaway facilities, which are maintained by DSD, for treatment and disposal. The efficiency of soakaway capability is low. The efficiency is likely to be further lower if the soakaway facilities have to cater for any additional unplanned and sporadic developments. Environmental Protection Department (EPD) should be consulted despite public sewerage connection is available in the vicinity of the Site;
- (f) the proposed drainage works, whether within or outside the lot boundaries, should be constructed and maintained by the lot owners at his expense;
- (g) for works to be undertaken outside the lot boundaries, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;

- (h) the lot owners/developers should take all precautionary measures to prevent any disturbance, damage and pollution from the developments 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 owners/developers would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (i) the proposed house is near the slope toe and the stability of the existing slope may be affected if the proposal is approved. Please consider to consult GEO on this aspect; and
- (j) the lot owner/developer should be advised that the limited desk-top checking by Government on the drainage proposal covers only the fundamental aspects of the drainage design which will by no means relieve his obligations to ensure that (i) the proposed drainage works will not cause any adverse drainage or environmental impacts in the vicinity; and (ii) the proposed drainage works and the downstream drainage systems have the adequate capacity and are in good conditions to receive the flows collected from his lot and all upstream catchments.

6. Sewerage and Environmental

Comments of the Director of Environmental Protection (DEP):

- (a) no objection to this application in the "V" and "GB" zone. The proposed septic tank and soakaway system is considered an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements in EPD's 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 (AP); and
- (b) DSD's communal septic tank and soakaway trench system is designed for existing and planned villages houses within the "V" zone. The performance of system is deteriorating in recent years and there is no spare capacity for the proposed new house.

7. Agriculture and Conservation

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

reservation on the application. The Site is partly covered with dense vegetation. Native trees on Government land will be affected by the proposed development.

8. Landscape

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

- (a) some reservations to the application from the landscape planning perspective;
- (b) referring to the aerial photo dated 16.4.2017, the Site is situated in an area of rural landscape character comprising of woodlands, scattered tree groups and small houses. Although the proposed use is not in line with the planning intention of “GB” zone, it is not incompatible to the surrounding environment;
- (c) with reference to his site visit dated 9.4.2018, the Site is partly vegetated and partly in operation as carpark. A number of *Bambusa sp.* (竹) and one tree stump of a young tree are found within the Site. With no specific measures are proposed to preserve the existing vegetation, the proposed development would involve felling of existing vegetation. Adverse impact on existing landscape resources is anticipated. Four existing native trees including *Sterculia lanceolate* (假蘋婆) and *Diospyros vaccinioides* (小果柿) with DBH 100 to 350mm are found on the adjoining slope. Noting that the Site is partly located on a vegetated slope, the proposed development would inevitably involve site formation and/or slope works. With no related information such as formation level or extent of slope works are provided, adverse impact from the proposed development to the adjacent trees and vegetation cannot be ascertained. In addition, with the tree stump within the Site and signs of recent tree cutting on trees adjacent to the Site, it is observed that tree works were conducted on those trees in the past. Since no information provided from the applicant, reason of the tree works is in doubt. Approval of the application would set an undesirable precedent to similar developments encroaching to the “GB” zone. The cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the area; and
- (d) should the Board approve the application, since the footprint of proposed small house covers the entire Site, there is no space for landscaping within the site boundary. The standard condition for submission and implementation of landscaping proposal is not recommended.

9. Water Supply

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

- (a) 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; and
- (c) the water mains in the vicinity of the Site cannot provide the standard pedestal hydrant.

10. Electrical Safety

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

- (a) no particular comment on the application from electricity supply safety aspect; and
- (b) 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.

11. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Yung Shue O Village is 20 while the 10-year Small House demand forecast is 674. Based on the latest estimate by the PlanD, about 1.1 ha (equivalent to about 44 Small House sites) of land is available within the "V" zone of Yung Shue O. Although there is sufficient land available within the "V" zone to meet the outstanding Small House applications, it cannot fully meet the future Small House demand (i.e. about 17.35 ha of land which is equivalent to about 694 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 and after planning permission has been given by the Board, LandsD will continue to process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. To utilize the land resource and achieve better house alignment in the vicinity, the proposed Small House footprint should follow the nearby houses unless there is strong justification not to do so. 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 EVA thereto.

- (b) to note the comments of the Director of Fire Services that 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.

- (c) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) that:

(i) The applicant should undertake a Natural Terrain Hazard Study (NTHS) and to provide suitable mitigation measures, if found necessary, as part of the development. However, this could have significant cost implication and render the development not economically viable. Thus, the applicant may consider looking for an alternative site for the proposed development if found practicable; and

(ii) the applicant is required to submit a Geotechnical Planning Review Report (GPRR) in support of the application and to assess the geotechnical feasibility of the proposed development. The GPRR should include a preliminary geotechnical review of the natural terrain hazards, and where necessary, indicate the recommended extent of study area for NTHS and a commitment to undertake the NTHS and to carry out any necessary mitigation measures as part of the development. Other essential contents of a GPRR are given in the attached GEO Advice Note.

- (d) 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 applicant is required to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the existing natural stream, village drains, ditches and the adjacent areas/houses;

(ii) 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 in the area. The applicant should take this into account when preparing the drainage proposal;

- (iii) the proposed development should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The applicant/owner is 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 of nuisance caused by failure of the systems;
 - (iv) the applicant should note that he should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer to a 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;
 - (v) Environmental Protection Department (EPD) should be consulted despite public sewerage connection is available in the vicinity of the Site;
 - (vi) the proposed drainage works, whether within or outside the lot boundaries, should be constructed and maintained by the lot owners at his expense;
 - (vii) for works to be undertaken outside the lot boundaries, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
 - (viii) the lot owners/developers should take all precautionary measures to prevent any disturbance, damage and pollution from the developments 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 owners/developers would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
 - (ix) the proposed house is near the slope toe and the stability of the existing slope may be affected if the proposal is approved. Please consider to consult GEO on this aspect; and
 - (x) the lot owner/developer should ensure that (i) the proposed drainage works will not cause any adverse drainage or environmental impacts in the vicinity; and (ii) the proposed drainage works and the downstream drainage systems have the adequate capacity and are in good conditions to receive the flows collected from his lot and all upstream catchments.
- (e) 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 EPD's 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.

- (f) to note the comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that 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. The water mains in the vicinity of the Site cannot provide the standard pedestal hydrant.

- (g) to note the comments of the Director of Electrical and Mechanical Services (DEMS) 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 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.

- (h) to note that the permission is only given to the development under the application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filing/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.