

**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 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.

Previous s. 16 Applications at the Application Site

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/TP/589	Proposed 2 Houses (New Territories Exempted House - Small Houses)	07/08/2015	R1-R4
A/TP/602	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	13/05/2016	R1-R4

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zoning for the area which was to define the limits of urban development areas by natural physical features so as to contain urban sprawl and 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.
- R2. The proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that over 50% of the application site and the proposed Small House footprints were located outside both the 'VE' and the "V" zone of a recognized village, and would cause adverse landscape and geotechnical impacts on the surrounding areas.
- R3. The application did not comply with the Town Planning Board Guidelines for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed developments would affect the existing natural landscape and adversely affect slope stability.
- R4. The approval of the application would set an undesirable precedent for similar applications within the "GB" zone. The cumulative effect of approving such applications would result in a general degradation of the natural environment in the area.

**Similar s. 16 Applications for Proposed House
(New Territories Exempted House (NTEH) – Small House)
Within the same “Green Belt” Zone on the
Tai Po Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/TP/409	Proposed House (NTEH – Small House)	05/12/2008	A1, A2, A3
A/TP/422	Proposed House (NTEH – Small House)	22/05/2009	A5, A7
A/TP/423	Proposed House (NTEH – Small House)	22/05/2009	A2, A4, A7
A/TP/540	Proposed House (NTEH – Small House)	03/01/2014	A1, A5
A/TP/581	Proposed House (NTEH – Small House)	27/02/2015	A1, A2, A6

Approval Conditions

- A1. The submission and provision of drainage facilities
- A2. The submission and implementation of landscaping and tree preservation proposals
- A3. The provision of water supplies for fire fighting and fire service installations
- A4. The submission of landscaping and tree preservation proposals including a site formation plan prior to commencement of site formation works
- A5. The submission and implementation of landscaping proposal including compensatory planting of at least 1 heavy standard size tree
- A6. The provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the TPB
- A7. The provision of fire fighting access, water supplies and fire service installations

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/TP/398	Proposed House (NTEH – Small House)	01/02/2008	R1-R3
A/TP/399	Proposed House (NTEH – Small House)	01/02/2008	R1-R3
A/TP/400	Proposed House (NTEH – Small House)	22/02/2008	R1, R3, R4
A/TP/404	Proposed House (NTEH – Small House)	23/05/2008	R1-R3
A/TP/405	Proposed House (NTEH – Small House)	06/06/2008	R2, R3
A/TP/421	Proposed House (NTEH – Small House)	26/06/2009 (Review)	R1, R3, R5, R6
A/TP/584	Proposed House (NTEH – Small House)	22/05/2015	R1-R3, R7

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zoning for the area which was to define 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 insufficient information in the submission to justify a departure from this planning intention.
- R2. The application did not comply with the Town Planning Board Guidelines for “Application for Development within “GB” zone under section 16 of the Town Planning Ordinance” in that it would involve clearance of natural vegetation and affect the existing natural landscape of the surrounding environment. There was insufficient information in the submission to demonstrate that the proposed development would not have any adverse landscape impacts on the surrounding areas.
- R3. The approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in further encroachment of green belt area by building development and a general degradation of the natural environment in the area.
- R4. The application did not comply with the Town Planning Board Guidelines for ‘Application for Development within "GB" zone under section 16 of the Town Planning Ordinance’ in that the required site formation and retaining wall for the proposed Small House would affect the trees on and immediately surrounding the

application site. There was insufficient information in the submission to demonstrate that the proposed development would not have any adverse landscape impact on the surrounding areas.

- R5. The proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that over 50% of the application site and the proposed house were located outside both the 'village environs' and the "Village Type Development" zone of a recognized village.
- R6. The proposed development would have adverse landscape impacts on the subject site and surrounding areas.
- R7. The application did not comply with the Interim Criteria for consideration of applications for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) does not support the application as the Site falls entirely outside the village 'environs' ('VE') of Ha Wong Yi Au;
- (b) the applicants claimed themselves as indigenous villagers of Sheung Wong Yi Au and Ha Wong Yi Au of Tai Po respectively. However, their eligibilities of Small House grants have yet to be ascertained;
- (c) Lots No. 353 S.A and 353 S.B in D.D. 32 are held under Block Government Lease (demised for agricultural use) while Lots No. 370 and 371 in D.D. 32 are held under Block Government Lease (demised for house use);
- (d) if planning approval is given by the Board, LandsD generally would allow NTEH development for existing lease of building lot (i.e. Lots 370 and 371) with no specifically prohibiting NTEH and there is no increase in the number of NTEH. In addition, the applicants must submit fresh NTEH applications to LandsD. However, there is no guarantee at this stage that the applications would be approved. If the applications are 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 houses concerned or approval of the EVA thereto;
- (e) DLO/TP had a meeting with members of Tai Po Rural Committee, indigenous inhabitant representative (IIR) and the applicants' representatives on 20.3.2018 on the issue of 'VE' of Ha Wong Yi Au Village. After providing detailed information and analysis, they understood that the boundary of the said 'VE' was confirmed where the locations of subject lots were situated outside the 'VE';
- (f) the number of outstanding Small House applications and 10-year Small House demand for Ha Wong Yi Au Village are 15 and 210 respectively;
(Note: The figure of 10-year Small House demand was estimated and provided by the IIR of Ha Wong Yi Au Village in 2016 and the information so obtained is not verified by DLO/TP.)
- (g) the Site is not covered by any Modification of Tenancy or Building Licence; and
- (h) according to the section plans provided by the applicants, the proposed site formation levels of the two sites are considered excessive. The applicants are advised to stick along the existing site levels or other levels with strong justifications.

2. **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 “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;
- (b) notwithstanding the above, he considers that the application only involves two Small House developments could be tolerated unless it is rejected on other grounds; and
- (c) the existing village access on and near the Site is not under Transport Department’s management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. **Environment**

Comment of the Director of Environmental Protection (DEP):

- (a) no objection to the application; and
- (b) if the application is approved, the applicant should be advised 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 Authorised Person.

4. **Landscape and Visual**

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

Landscape

- (a) has some reservations on the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising of natural woodland and village houses. Although the proposed development is not in line with the planning intention of “GB” zone, it is not incompatible with the surrounding environment;

- (c) the Site is vacant and covered with grasses and weeds. No existing tree is found within the Site. However, noting that the Site is located on a slope at the fringe of adjacent woodland to the south, the proposed development would inevitably involve site formation and/or slope works. Referring to **Drawings A-2 and A-3**, the Site is proposed to be cut and filled for the construction of a building platform with reinforced concrete retaining wall of about 4.6m high. Adverse impact arising from site formation and slope works to the adjacent woodland is anticipated;
- (d) comparing the aerial photos taken in 2013 and 2014, it is apparent that vegetation had been cleared within the Site in 2014 prior to submission of the application. Approval of this application would set an undesirable precedent to encourage such unauthorized removal of vegetation as well as further attract similar developments in 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;
- (e) since the footprint of the proposed houses cover most of the Site, there is inadequate space for landscaping within the Site. Should the application be approved, the standard condition for submission and implementation of landscaping proposal is not recommended; and

Visual

- (f) noted from **Drawings A-2 and A-3**, building platform with reinforced concrete retaining wall of about 4.6m high is proposed to be erected on three sides to accommodate the proposed two Small Houses. Such a 4.6m high reinforced concrete retaining wall may give rise to visual concern in the existing rural and natural setting. However, there is no information in the submission to illustrate any proposed treatment/mitigation measures for the proposed retaining wall, and hence the potential visual impact of the proposed retaining wall cannot be ascertained.

5. Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, a condition should be included to request the applicants to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or the Board to ensure that the proposed houses 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 houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. The proposed developments are located on unpaved ground and on slope toe. The proposed houses 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 applicants should take this into account when preparing the drainage proposals. The applicants are also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants 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 applicants should design the drainage proposals based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owners/developers on their drainage proposals. In the design, the applicants should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. They 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 developments and the top of the embankment of existing stream courses/ponds/rivers;
- (e) there is no existing public sewerage in the vicinity of the Site;
- (f) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owners at their expenses;
- (g) 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;
- (h) the lot owners 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 lots. In the event of any damage to the existing drainage facilities, the lot owners would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and
- (i) the proposed houses are located on the slope. The stability of the existing slope may be affected if the proposal is approved.

6. **Nature Conservation**

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

- no strong view on the application as the Site is vacant.

7. **Fire Safety**

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

- (a) no in-principle objection to the application; and
- (b) the applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety

requirements will be formulated upon receipt of formal application referred by LandsD.

8. Water Supply

Comments of 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 applicants may need to extend the inside services to the nearest suitable Government water mains for connection. The applicants shall resolve any land matters (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.

9. Geotechnical

Comments of Head of the 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 for a natural terrain hazard study (NTHS);
- (b) according to his records, the Site has been modified by unauthorized site formation works and is located within an existing feature no. 7SW-B/DT44; and
- (c) the applicants are required to submit a Geotechnical Planning Review Report (GPRR) in support of the application. The GPRR should include a preliminary geotechnical review of the natural terrain hazards and slope features that may affect or be affected by the proposed development. The GPRR should also include an assessment of the geotechnical feasibility of the proposed development, and address the scope of geotechnical investigation of the unauthorized site formation works and existing feature(s) and any associated remedial/slope upgrading works that may be required. The GPRR should indicate the recommended extent of the study area for a NTHS and a commitment to undertake the NTHS and to carry out any necessary mitigation measures as part of the proposed development. Other essential contents of a GPRR are given in the GEO Advice Note.

10. Electricity Supply Safety

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

- (a) no 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 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 DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Ha Wong Yi Au is 15 while the 10-year Small House demand forecast for the same village is 210. Based on the latest estimate by the Planning Department, about 0.59 ha (or equivalent to about 23 Small House sites) of land are available within the “V” zone of Ha Wong Yi Au. Therefore, the land available cannot fully meet the future Small House demand of about 5.05 ha (or equivalent to about 202 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 planning approval is given by the Board, the applicants must submit fresh NTEH applications to his office. However, there is no guarantee at this stage that the applications would be approved. If the applications are 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 houses concerned or approval of the Emergency Vehicular Access thereto;
- (b) 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 houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. The proposed development is located on unpaved ground and on slope toe. The proposed houses 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 applicants should take this into account when preparing the drainage proposals. The applicants are also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants 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 applicants should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owners/developers on their drainage proposals. In the design, the applicants should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. They 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;
 - (iii) there is no existing public sewerage in the vicinity of the Site;
 - (iv) the proposed drainage works, whether within or outside the lots boundary, should be constructed and maintained by the lot owners at their expenses;
 - (v) for works to be undertaken outside the lots boundary, prior consent and agreement from DLO/TP and/or relevant private lot owners should be sought;
 - (vi) the lot owners 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 lots. In the event of any

damage to the existing drainage facilities, the lot owners would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and

- (vii) the proposed houses are located on the slope. The stability of the existing slope may be affected if the proposal is approved;
- (c) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for the provision of water supply to the proposed development, the applicants may need to extend the inside services to the nearest suitable Government water mains for connection. The applicants shall also resolve any land matters associated with the provision of water supply and be responsible for construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (d) to note the comments of the Director of Fire Services (D of FS) that the applicants are reminded to observe 'New Territories Exempted Houses – a Guide to Fire Safety Requirements' published by LandsD'. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (e) to note the comments of the Commissioner for Transport (C for T) that the existing village access on and near the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) to note the comment of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (Head(GEO), CEDD) that the Geotechnical Planning Review Report (GPRR) should include a preliminary geotechnical review of the natural terrain hazards and slope features that may affect or be affected by the proposed development. The GPRR should also include an assessment of the geotechnical feasibility of the proposed development, and address the scope of geotechnical investigation of the unauthorized site formation works and existing feature(s) and any associated remedial/slope upgrading works that may be required. The GPRR should indicate the recommended extent of the study area for a natural terrain hazard study (NTHS) and a commitment to undertake the NTHS and to carry out any necessary mitigation measures as part of the proposed development. Other essential contents of a GPRR are given in the GEO Advice Note.
- (g) to note the comment of the Director of Electrical and Mechanical Services (DEMS) that 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 the comment of the Director of Environmental Protection (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 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 Authorised Person; and

- (i) 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 applicants 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.