

**Extract of Town Planning Board Guidelines
for Application for Development within Green Belt Zone
under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)**

The relevant assessment criteria are as follows:

- (a) There is a general presumption against development (other than redevelopment) in a “GB” zone. In general the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use.
- (b) An application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas. With the exception of New Territories Exempted Houses, a plot ratio up to 0.4 for residential development may be permitted.
- (c) Applications for New Territories Exempted Houses with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers.
- (d) Redevelopment of existing residential development will generally be permitted up to the intensity of the existing development.
- (e) Applications for G/IC uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available. The plot ratio of the development site may exceed 0.4 so as to minimize the land to be allocated for G/IC uses.
- (f) Passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration.
- (g) The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.
- (h) The vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided.
- (i) The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- (j) The proposed development must comply with the development controls and restrictions of areas designated as water gathering grounds.

- (k) The proposed development should not overstrain the overall provision of G/IC facilities in the general area.
- (l) The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.
- (m) Any proposed development on a slope or hillside should not adversely affect slope stability.

**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 Application Covering the Application Site

Approved Application

<u>Application No.</u>	<u>Use/Development</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
A/TM-LTYT/226	Proposed House (New Territories Exempted House)	16.12.2011	(1), (2) & (3)

Approval Conditions

- (1) Submission and implementation of drainage proposal.
- (2) Submission and implementation of proposal on emergency vehicular access, water supplies for firefighting and fire service installations.
- (3) Submission and implementation of landscape proposal.

**Similar Application within the Same “GB” Zone
on the draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTY Y/9**

Rejected Application

<u>Application No.</u>	<u>Zoning</u> (at the time of approval)	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
A/TM-LTY Y/3	“GB”	Two Houses (Two New Territories Exempted Houses)	9.5.1997	(1), (2), (3) & (4)

Reasons for Rejection

- (1) The proposed development is not in line with the planning intention of the “Green Belt” (“GB”) zone which is to define the limits of urban and suburban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. In this regard, there is no strong justification for the proposed development to merit a departure from such planning intention.
- (2) According to the Town Planning Board's “Guidelines for Application for Development within ‘Green Belt’ Zone”, there is a general presumption against development in “GB” zone. There is no strong justification for the proposed development to deviate from the general presumption.
- (3) There is insufficient information in the submission to demonstrate that appropriate mitigation measures have been provided to address the potential environmental problems generated by the proposed refuse transfer station in close proximity to the application site.
- (4) The approval of the application will set an undesirable precedent for similar applications in the “GB” zone.

Detailed Comments of Relevant Government Departments

Land Administration

1. Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):
 - (a) The planning application concerns a redevelopment application on Lot No. 2447 S.D RP in D.D. 130. Except the said redevelopment application, there is no impending Small House application at the said lot.
 - (b) The application lot does not fall within any village environs of Tuen Mun Heung.
 - (c) The lot is held for agricultural use under Block Government Lease containing the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (d) According to the assignment documents registered in the Land Registry, Lot No. 2447 S.D RP comprises of 653 ft² [about 60.7m²] of “House” land and about 9,134 ft² [about 849m²] of agricultural land. The redevelopment application in connection with the current planning application is still at the processing stage, the building status and redevelopment conditions of the application lot have yet to be established.
 - (e) It is noted that the location of the septic tank in the planning application is different from that in the redevelopment proposal received by his office.
 - (f) Notwithstanding planning permission may be given, there is no guarantee that the concerned redevelopment application will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by LandsD acting in the capacity as the Landlord at its sole discretion. In the event that redevelopment application is approved, his office will impose any terms and conditions as the Government shall deem fit.

Building Matters

2. Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
 - (a) He has no comment under Buildings Ordinance.
 - (b) Since the proposed building is New Territories Exempted House (NTEH) which is exempted from the Buildings Ordinance under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121 or the previous Cap 322), District Lands Officer/Tuen Mun (DLO/TM) should be in a better position to comment on the application.

- (c) The applicant is reminded that all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance and Authorized Person must be appointed for the site formation and communal drainage works refer to (b) above, if applicable.

Environment

3. Comment of the Director of Environmental Protection (DEP):

While he has no objection to the application, the applicant is advised that the design and construction of the septic tank and soakaway system should 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 (AP).

Nature Conservation

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

- (a) It is noted that the Site is located within “GB” zone. According to recent aerial photo (dated 2 April 2017) from Geospatial Information Hub of LandsD, the Site is an existing paved area.
- (b) Considering the existing condition of the Site, he has no strong view on the subject application from the perspective of nature conservation. Nonetheless, as the Site is located within “GB” zone, the Board may wish to consider if the approval of the subject application would be in line with the planning intention of the “GB” zone.

Traffic

5. Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no comment on the application from traffic engineering viewpoint on the condition that there is no illegal parking along Shun Tat Street in relation to this application.
- (b) He observes that the concerned land lot will be affected by the public works project CE 19/2015(TP) - Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas - Feasibility Study undertaken by CEDD.
- (c) There is no other planned public road projects initiated by TD encroached by the Site.

6. Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site should be commented and approved by TD. The applicant shall be responsible for his own access

arrangement.

- (b) The access between the Site and Shun Tat Street/Tung Fuk Road is not and will not be maintained by HyD.

Drainage

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

- (a) He has no objection in principle to the application from public drainage point of view.
- (b) Should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the site to ensure that it will not cause adverse drainage impact to the adjacent area.
- (c) The applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website (http://www.dsd.gov.hk/EN/Technical_Manuals/DSD_Guidelines/index.html).
- (d) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works.
- (e) The applicant should implement the drainage facilities on site in accordance with the drainage proposal.
- (f) The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.
- (g) The proposed development should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.
- (h) EPD should be consulted regarding to sewerage aspects of the proposed development.

Water Supply

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

- (a) He has no comment on the application.

- (b) The Site is not located within WSD water gathering ground.

Fire Safety

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

- (a) He has no comment on the application.
- (b) The applicant is advised to observe “New Territories Exempted Houses – A Guide to Fire Safety Requirements” published by LandsD.

Landscape

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

- (a) He has reservation on the application from landscape planning point of view.
- (b) With reference to the site photos dated 15.3.2018, and the aerial photo of 2017, it is observed that the Site is vacant and completely hard paved. Densely wooded areas of significant sized trees are found to the south of the Site. The Site is situated in an area of rural landscape character disturbed by open storage yards. Although the proposed use is not incompatible with the surrounding areas, the proposed use is considered not in line with the intention and planned use of “GB” zone and incompatible with the landscape character of the green belt.
- (c) When comparing the aerial photo of 2008, 2011 and 2017, it is observed that the Site and its vicinity was originally vegetated in 2008 but has since been hard paved and operated as vehicle park without any previous planning application covered. Landscape impact has taken place.
- (d) There is a general presumption against development in the “GB” zone, approval of the application may set an undesirable precedent likely to encourage the proliferation of similar NTEH development (without mitigation) to the vicinity. The cumulative impact of which would be the general degradation of the rural landscape character and undermine the integrity of the “GB” zone. Hence he has reservations on the application from the landscape planning perspective.
- (e) In consideration of the space remaining after developing the NTEH, it is opined that there is no space left for any meaningful landscape treatment for screening and/or mitigation of the landscape impact and impractical to impose a landscape condition.

Geotechnical Aspect

11. Comments of the Head of Geotechnical Engineering Office, Civil Engineering & Development Department (H(GEO), CEDD):
- (a) He has no in-principle geotechnical objection to the application.
 - (b) The applicant is reminded to submit the site formation plans to the Buildings Department for approval as required under the provisions of the Buildings Ordinance, unless the applicant wishes to apply for a certificate of exemption for site formation works from the Director of Lands.

Long Term Development

12. Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):
- (a) The Site falls within the Study Area of the on-going Preliminary Land Use study for Lam Tei Quarry and the Adjoining Areas (the Study) jointly commissioned by CEDD and PlanD.
 - (b) He has no specific comment as far as the Study is concerned.

13. Comments of the Chief Town Planner/Housing & Office Land Supply, Planning Department (CTP/HOLS, PlanD):

The Site falls within one of the Study Sites under the “Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas”. The study is in progress. Consultations with the relevant District Councils and stakeholders on the Preliminary Land Use Concept Plan will be conducted in 2018. He has no comment on the planning application.

Others

14. Comments of the Director of Electrical and Mechanical Services (DEMS):
- (a) He has no particular comment on the application from electricity supply safety aspect.
 - (b) 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 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.

District Officer's Comments

15. Comment of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

His office has not received any comment from the locals upon the end of consultation period.

Advisory Clauses

- (a) the planning permission is given to the development/uses under application. It does not condone any other development/uses which currently exist on the Site but not covered by the application. The applicant shall be requested to take immediate action to discontinue such development/uses not covered by the permission;
- (b) to note the comments of District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the planning application concerns a redevelopment application on Lot No. 2447 S.D RP in D.D. 130. The lot is held for agricultural use under Block Government Lease containing the restriction that no structures are allowed to be erected without the prior approval of the Government. According to the assignment documents registered in the Land Registry, Lot No. 2447 S.D RP comprises of 653 ft² [about 60.7m²] of “House” land and about 9,134 ft² [about 849m²] of agricultural land. The redevelopment application in connection with the current planning application is still at the processing stage, the building status and redevelopment conditions of the application lot have yet to be established. It is noted that the location of the septic tank in the planning application is different from that in the redevelopment proposal received by his office. Notwithstanding planning permission may be given, there is no guarantee that the concerned redevelopment application will be approved and he reserves his right to take any action as may be appropriate. The application will be considered by LandsD acting in the capacity as the Landlord at its sole discretion. In the event that redevelopment application is approved, his office will impose any terms and conditions as the Government shall deem fit;
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that the applicant is reminded that all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance and Authorized Person must be appointed for the site formation and communal drainage works refer to (b) above, if applicable;
- (d) to note the comments of the Director of Environmental Protection (DEP) that the applicant is advised that the design and construction of the septic tank and soakaway system should 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 (AP);
- (e) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) that he has no comment on the application from traffic engineering viewpoint on the condition that there is no illegal parking along Shun Tat Street in relation to this application;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the applicant shall be responsible for his own access arrangement. The access between the Site and Shun Tat Street/Tung Fuk Road is not and will not be maintained by HyD;
- (g) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that the applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website (http://www.dsd.gov.hk/EN/Technical_Manuals/DSD_Guidelines/index.html). The proposed

drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works. The applicant should implement the drainage facilities on site in accordance with the drainage proposal. The applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system. The proposed development should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas;

- (h) to note the comments of the Director of Fire Services (D of FS) that the applicant is advised to observe “New Territories Exempted Houses – A Guide to Fire Safety Requirements” published by LandsD;
- (i) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering & Development Department (H(GEO), CEDD) that the applicant is reminded to submit the site formation plans to the Buildings Department for approval as required under the provisions of the Buildings Ordinance, unless the applicant wishes to apply for a certificate of exemption for site formation works from the Director of Lands; and
- (j) 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.