

**Extract of the Interim Criteria for Consideration of Application
for New Territories Exempted House (NTEH)/Small House in New Territories
(promulgated on 7.9.2007)**

The relevant assessment criteria for planning application are extracted as follows:

- (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) if 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 within the same “R(E)” zone
on the approved Lam Tei and Yick Yuen OZP No. S/TM-LTY Y/10**

Approved Applications

<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
A/TM-LTY Y/283	Proposed House (New Territories Exempted House - Small House)	12.12.2014	(1) and (2)
A/TM-LTY Y/284	Proposed House (New Territories Exempted House - Small House)	12.12.2014	(1) and (2)
A/TM-LTY Y/285	Proposed House (New Territories Exempted House - Small House)	12.12.2014	(1) and (2)
A/TM-LTY Y/301	Proposed House (New Territories Exempted House - Small House)	30.9.2016	(1) and (3)
A/TM-LTY Y/307	Proposed House (New Territories Exempted House - Small House)	18.3.2016	(1) to (3)
A/TM-LTY Y/335	Proposed House (New Territories Exempted House - Small House)	11.8.2017	(1) to (3)
A/TM-LTY Y/336	Proposed House (New Territories Exempted House - Small House)	11.8.2017	(1) to (3)

Approval conditions

- (1) Submission and implementation of drainage proposal
- (2) Submission and implementation of tree preservation and landscape proposal
- (3) Provision of septic tank

Rejected Applications

<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
A/TM-LTY Y/204	Proposed Houses (New Territories Exempted Houses - Small Houses)	29.10.2010	(1), (2)
A/TM-LTY Y/238	Proposed House (New Territories Exempted House - Small House)	16.11.2012 TPB	(2), (3), (4)

Major rejection reasons

- (1) Not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (the Interim Criteria) in that over 50% of each of the footprints of the three proposed Small Houses fell outside both the village environs and the "Village Type Development" zone
- (2) No exceptional circumstances to warrant approval of the application
- (3) Not comply with the Interim Criteria in that there was no shortage of land within the "V" zone for Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen to meet the demand forecast for Small House development
- (4) The applicant failed to demonstrate that the proposed development would have no adverse drainage, sewerage and landscape impacts on the surrounding areas

Detailed Comments of Government Department Concerned

Land Administration

1. Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):
 - (a) The application site (the Site) falls within the common village environ ('VE') of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen. The Site also falls within "Village Type Development" ("V") and "Residential (Group E)" ("R(E)") zones on the approved Lam Tei and Yick Yuen OZP No. S/TM-LTY Y/10. According to the current policy, such Small House (SH) application can be considered subject to obtaining of planning approval.
 - (b) The applicant claimed to be an indigenous villager ("IV"). According to the procedures and guidelines for processing SH application, the applicant is required to attend a vetting interview for verification of his eligibility of SH grant and make a statutory declaration for his IV status together with the confirmation of his IV status submitted by his indigenous inhabitant representative upon satisfactory resolution of technical problems of his lots. Hence, the eligibility of SH grant of the applicant is yet to be verified.
 - (c) The number of outstanding SH applications for Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen is 150 houses in total and the number of 10-year forecasts of SH demand for Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen provided by the respective Indigenous Inhabitant Representatives is 862 houses.
 - (d) The lots concerned are Old Schedule lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (e) The applicant had submitted an application to erect a small house on the lots which has been held in abeyance. If planning permission is given by the Town Planning Board, his office may continue processing the application.
 - (f) Notwithstanding the above, there is no guarantee that the concerned SH application will be approved and he reserves his right to take any action as may be appropriate. In the event that the SH application is approved, it would be subject to such any terms and conditions as the Government shall deem fit.
 - (g) Pursuant to the prevailing guidelines, any land that is within 30m from known resumption/clearance limits is "prohibited areas". Having checked his records, the Site was situated at close vicinity (within 30m) to the northeast corner of the proposed San Hing Road development site. According to CE/HP2 of CEDD, the exact site boundary, phasing of development and land requirement are still under refinement by CEDD. His office may consider to process the Small House application subject to no adverse comments received from CEDD and other concerned government departments.

Building Matters

2. Comments of the Chief Building Surveyor/New Territories West (CBS/NTW, BD):

- (a) Noting that the building to be erected on the site will be New Territories Exempted House (NTEH) under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121), DLO/TM should be in a better position to comment on the application.
- (b) In case DLO/TM decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/TM or seek AP's advice for details.

Traffic

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

In view that there is no public road being managed by Transport Department (TD) adjacent to the Site, he has no comment on the application from traffic engineering viewpoints. There is no planned road project under the TD's purview at the Site.

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

- (a) It is noted from the application that no run-in/out and direct vehicular access to the Site are proposed.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Drainage

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

He has no in-principle objection to the application subject to the following conditions from public drainage viewpoints.

- (a) Should the application be approved, a condition should be stipulated requiring the applicant to submit a drainage proposal for the development and to implement and maintain the drainage facilities proposed in the drainage proposal to the satisfaction of his department.
- (b) Please be advised that there is no public sewerage facility located in the vicinity of the application site. Environmental Protection Department (EPD), the planning authority of sewerage infrastructure, should be consulted regarding the sewerage treatment/disposal aspects of the development.

He would also like to take this opportunity to provide the following advice/comments

on the drainage works for the proposed small house development:

- (i) The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the small house site as well as overland flow from areas in the vicinity.
- (ii) Surface channel should be provided along the perimeter of the lot to collect all the runoff generated from the site or passing through the site, and discharge the runoff collected to a proper discharge point.
- (iii) All the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the applicant at his own expense. For works to be undertaken outside the lot boundary, the applicant should consult and obtain prior consent from DLO/TM and relevant lot owners.

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

A 900mm diameter underground drain constructed and maintained by his office may be affected by the application. In case the proposed works would interface with the captioned drainage channel, his office should be informed in advance. His office has no adverse comment on the application subject to the conditions listed below:

- (a) The existing village drainage channel maintained by his office is a storm water channel. Discharge of influent from the small house site to the channel is not allowed.
- (b) The developer(s) should check and ensure storm water to be discharged from the small house site will not adversely affect the discharging capacity of the existing drainage system maintained by his office.
- (c) The developer(s) should not block or choke the aforesaid drainage system during and after the construction period.
- (d) The developer(s) should make good of any damages to the aforesaid drainage system at his own cost.
- (e) His office will not take up maintenance responsibility of any drainage work connected by the developer(s).

Environment

7. Comments of the Director of Environmental Protection (DEP):

- (a) The proposed small house development is not anticipated to have adverse environmental impact and he has no objection to the application.
- (b) There is no public sewer serving the Site. He notes that there is a concreted and mostly covered drainage channel within the Site. The applicant is reminded to properly treat and dispose of any sewage and wastewater arising in accordance with the Water Pollution Control Ordinance. Meanwhile, he has no specific comment on the proposed use of septic tank and soakaway pit

system for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN5/93 namely “Drainage Plans subject to Comments by the EPD” and are duly certified by an AP.

Fire Safety

8. Comments of the Director of Fire Services (D of FS):
- (a) He has no specific comment on the application.
 - (b) The applicant is advised to observe “New Territories Exempted Houses – A Guide to fire safety requirements” published by the Lands Department.

Water Supply

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

He has no comment on the application. The Site is not located within water gathering ground.

Nature Conservation

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

The Site falls within “V” and “R(E)” zones under the OZP. According to his recent visit, the Site is vacant and paved. No trees or species of conservation interest were found within the Site. Noting the applicant has stated that the development proposal would not involve felling of trees and/or cause damage to branches and roots of trees in the application, he has no comment on the subject application from the nature conservation perspective.

Landscape

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

With reference to the aerial photo of 2018, it is observed that the site is vacant. In view of existing village houses in the vicinity, significant change to the landscape character arising due to the application is not envisaged.

District Officer’s Comments

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

He has distributed consultation letters to the locals concerned and understand that they would provide their comments (if any) to the Board direct. He has no further comment.

Archaeology

13. Comments of the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO):

The Site falls within the San Hing Tsuen Site of Archaeological Interest. In view of the location and scope of the proposed works, the applicant is required to notify the AMO two weeks prior to the commencement of construction work so as to facilitate his staff to conduct site inspection in the course of excavation.

Others

14. Comments of the Chief Engineer/Housing Project 2, Civil Engineering and Development Department (CE/HP2, CEDD):

His consultant is currently carrying out a study under Agreement No. CE 68/2017 (CE) – Site Formation and Infrastructural Works Development at San Hing Road and Hong Po Road, Tuen Mun – Feasibility Study. According to the latest layout plan extracted from the consultancy brief, the proposed house application is found locating adjacent to the north boundary of the proposed San Hing Road housing development site. However, the exact boundary, phasing of development and land requirement are still under refinement by the consultant to be agreed by the Housing Department, the Lands Department and other government departments concerned.

Demand and Supply of Small House Site

15. According to DLO/TM, LandsD's record for Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen, the total number of outstanding Small House applications of the three villages is 150 (i.e. about 3.75 ha of land) while the 10-year forecast of Small House demand of the three villages is 862 houses (i.e. about 21.55 ha of land) (i.e. a total of 1,012 houses or about 25.3 ha of land). Based on the latest estimate by PlanD, about 21.53 ha (equivalent to about 861 Small House sites) of land is available within the "V" zone of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen 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 25.3 ha of land (equivalent to about 1,012 Small House sites). The proposed Small House footprint falls wholly within the common 'VE' of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen.

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that the lots concerned are Old Schedule lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. The applicant had submitted an application to erect a small house on the lots which has been held in abeyance. There is no guarantee that the concerned Small House application will be approved and he reserves his right to take any action as may be appropriate. In the event that the Small House application is approved, it would be subject to such any terms and conditions as the Government shall deem fit;
- (b) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the building to be erected on the application site (the Site) will be New Territories Exempted House (NTEH) under the Buildings Ordinance (BO) (Application to the New Territories) Ordinance (Cap. 121). In case DLO/TM, LandsD decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH developments, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/TM, LandsD or seek AP's advice for details;
- (c) to note the comments of the Director of Environmental Protection that there is no public sewer serving the Site. There is a concreted and mostly covered drainage channel within the Site. The applicant is reminded to properly treat and dispose of any sewage and wastewater arising in accordance with the Water Pollution Control Ordinance. The design and construction of the proposed use of septic tank and soakaway pit system for collection, treatment and disposal of the sewage should follow the requirements of the ProPECC PN5/93 namely "Drainage Plans subject to Comments by the Environmental Protection Department (EPD)" and are duly certified by an AP;
- (d) to note the comments of the Chief Engineer/New Territories West, Highways Department that it is noted from the application that no run-in/out and direct vehicular access to the Site are proposed. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that there is no public sewerage facility located in the vicinity of the Site. EPD, the planning authority of sewerage infrastructure, should be consulted regarding the sewerage treatment/disposal aspects of the development. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the small house site as well as overland flow from areas in the vicinity. Surface channel should be provided along the perimeter of the lot to collect all the runoff generated from the site or passing through the site, and discharge the runoff collected to a proper discharge point. All the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the applicant at his own expense. For works to be undertaken outside the lot boundary, the applicant should consult and obtain prior consent from DLO/TM and relevant lot owners;

- (f) to note the comments of the District Officer (Tuen Mun), Home Affairs Department that a 900mm diameter underground drain constructed and maintained by his office may be affected by the application. In case the proposed works would interface with the captioned drainage channel, his office should be informed in advance. The applicant should observe the following conditions: (i) the existing village drainage channel maintained by his office is a storm water channel. Discharge of influent from the small house-site to the channel is not allowed; (ii) the developer(s) should check and ensure storm water to be discharged from the small house site will not adversely affect the discharging capacity of the existing drainage system maintained by his office; (iii) the developer(s) should not block or choke the aforesaid drainage system during and after the construction period; (iv) the developer(s) should make good of any damages to the aforesaid drainage system at his own cost; and (v) his office will not take up maintenance responsibility of any drainage work connected by the developer(s);
- (g) to note the comments of the Director of Fire Services that the applicants shall observe the “New Territories Exempted Houses – A Guide to Fire Safety Requirements” issued by the Lands Department; and
- (h) to note the comments of the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (AMO) that the Site falls within the San Hing Tsuen Site of Archaeological Interest. In view of the location and scope of the proposed works, the applicant is required to notify the Antiquities and Monuments Office two weeks prior to the commencement of construction work so as to facilitate his staff to conduct site inspection in the course of excavation.