

**Relevant Interim Criteria for Consideration of Application for
New Territories Exempted House (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) 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.

Previous Applications

Approved Application

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/NE-KTS/314	Proposed House (New Territories Exempted House (NTEH) - Small House)	19.8.2011 (Lapsed on 20.8.2015)	A1 to A3

Approval Conditions

- A1 The submission and implementation of drainage proposals
- A2 The provision of firefighting access, water supplies for fire fighting and fire service installations
- A3 The submission and implementation of landscape proposals

Rejected Application

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-KTS/468	Proposed House (NTEH - Small House)	3.5.2019	R1 and R2

Rejection Reasons

- R1 Not in line with the planning intention of the “AGR” zone
- R2 Land is still available within the “V” zone of Hang Tau Village. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services

**Appendix IV of RNTPC Paper
No. A/NE-KTS/476**

**Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within
the Same “Agriculture” Zone
on the Kwu Tung South Outline Zoning Plan**

After the first promulgation of the Interim Criteria on 24.11.2000

Approved Applications

	Application No.	Uses/Developments	Date of Consideration	Approval Conditions
1.	A/NE-KTS/135 ⁽¹⁾	Proposed NTEH (Small House)	7.12.2001	A1, A2, A3 & A4
2.	A/NE-KTS/136 ⁽²⁾	Proposed NTEH (Small House)	7.12.2001	A1, A2, A3 & A4
3.	A/NE-KTS/137	Proposed NTEH (Small House)	7.12.2001	A1, A2, A3 & A4
4.	A/NE-KTS/138	Proposed NTEH (Small House)	7.12.2001	A1, A2, A3 & A4
5.	A/NE-KTS/139	Proposed NTEH (Small House)	7.12.2001	A1, A2, A3 & A4
6.	A/NE-KTS/140 ⁽³⁾	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
7.	A/NE-KTS/141 ⁽⁴⁾	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
8.	A/NE-KTS/142 ⁽⁵⁾	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
9.	A/NE-KTS/143	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
10.	A/NE-KTS/144	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
11.	A/NE-KTS/146	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
12.	A/NE-KTS/147	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
13.	A/NE-KTS/148	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
14.	A/NE-KTS/149	Proposed NTEH (Small House)	21.12.2001	A1, A2, A3 & A4
15.	A/NE-KTS/152	Proposed NTEH (Small House)	26.4.2002	A1, A2 & A4
16.	A/NE-KTS/158 ⁽⁶⁾	Proposed NTEH (Small House)	13.9.2002	A1, A2 & A4
17.	A/NE-KTS/159	Proposed NTEH (Small House)	13.9.2002	A1, A2 & A4
18.	A/NE-KTS/160	Proposed NTEH (Small House)	13.9.2002	A1, A2 & A4
19.	A/NE-KTS/161	Proposed NTEH (Small House)	13.9.2002	A1, A2 & A4
20.	A/NE-KTS/190	Proposed NTEH (Small House)	19.11.2004	A1, A2 & A4

	Application No.	Uses/Developments	Date of Consideration	Approval Conditions
21.	A/NE-KTS/209 ⁽⁵⁾	Proposed NTEH (Small House)	24.6.2005	A1, A2 & A4
22.	A/NE-KTS/210 ⁽⁴⁾	Proposed NTEH (Small House)	24.6.2005	A1, A2 & A4
23.	A/NE-KTS/211 ⁽²⁾	Proposed NTEH (Small House)	24.6.2005	A1, A2 & A4
24.	A/NE-KTS/212 ⁽³⁾	Proposed NTEH (Small House)	24.6.2005	A1, A2 & A4
25.	A/NE-KTS/213 ⁽¹⁾	Proposed NTEH (Small House)	24.6.2005	A1, A2 & A4
26.	A/NE-KTS/252	Proposed NTEH (Small House)	22.6.2007	A1, A2, A3 & A4
27.	A/NE-KTS/255	Proposed NTEH (Small House)	30.11.2007	A1, A2, A3 & A4
28.	A/NE-KTS/259	Proposed NTEH (Small House)	1.2.2008	A1, A2, A3 & A4
29.	A/NE-KTS/279	Proposed NTEH (Small House)	4.9.2009	A1, A2, A3 & A4
30.	A/NE-KTS/280 ⁽⁷⁾	Proposed NTEH (Small House)	4.9.2009	A1, A2, A3 & A4
31.	A/NE-KTS/281 ⁽⁶⁾	Proposed NTEH (Small House)	4.9.2009	A1, A2, A3 & A4
32.	A/NE-KTS/289	Proposed NTEH (Small House)	7.5.2010	A1, A2, A3 & A4
33.	A/NE-KTS/300 ⁽⁸⁾	Proposed NTEH (Small House)	29.10.2010	A1, A2, A3 & A4
34.	A/NE-KTS/329 ⁽⁹⁾	Proposed NTEH (Small House)	9.11.2012	A1, A2, A3 & A4
35.	A/NE-KTS/330 ⁽¹⁰⁾	Proposed NTEH (Small House)	9.11.2012	A1, A2, A3 & A4
36.	A/NE-KTS/358 ⁽⁷⁾	Proposed NTEH (Small House)	7.3.2014	A1, A2, A4 & A5
37.	A/NE-KTS/360 ⁽⁶⁾	Proposed NTEH (Small House)	7.3.2014	A1, A2, A4 & A5
38.	A/NE-KTS/444 ⁽⁹⁾	Proposed NTEH (Small House)	3.2.2017	A1, A2, A4 & A5
39.	A/NE-KTS/445 ⁽¹⁰⁾	Proposed NTEH (Small House)	3.2.2017	A1, A2, A4 & A5
40.	A/NE-KTS/456 ⁽⁸⁾	Proposed NTEH (Small House)	15.6.2018	A2, A4 & A5

Remarks:

- (1) applications at the same location
- (2) applications at the same location
- (3) applications at the same location
- (4) applications at the same location
- (5) applications at the same location
- (6) applications at the same location
- (7) applications at the same location
- (8) applications at the same location
- (9) applications at the same location
- (10) applications at the same location

Approval Conditions

- A1 The submission and implementation of tree preservation and/or landscape proposals
- A2 The submission and provision of drainage facilities/proposals
- A3 The design and provision of fire-fighting access, water supplies for fire-fighting and fire service installations
- A4 The commencement clause
- A5 The provision of septic tank

Rejected Applications

	Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
1.	A/NE-KTS/368	Proposed NTEH (Small House)	13.6.2014	R1, R2 & R3
2.	A/NE-KTS/388	Proposed NTEH (Small House)	12.12.2014	R1, R2 & R3
3.	A/NE-KTS/402	Proposed 6 NTEHs (Small Houses)	3.7.2015	R1, R2 & R3
4.	A/NE-KTS/443	Proposed NTEH (Small House)	19.5.2017 (on review)	R1 & R4
5.	A/NE-KTS/447	Proposed NTEH (Small House)	16.6.2017 (on review)	R1 & R4

Reasons for Rejection

- R1 Not in line with the planning intention of the “AGR” zone.
- R2 Setting an undesirable precedent for other similar applications within the “AGR” zone causing cumulative adverse traffic and/or landscape impacts to the area.
- R3 Not complying with the Interim Criteria in that more than 50% of the site and/or the footprint of the proposed Small House(s) fall outside both the ‘VE’ and “V” zone of Hang Tau Village. Land is still available within the “V” zone of Hang Tau Village. Village house development should be sited close to the village proper as far as possible to maintain an orderly development pattern, efficient use of land and provision of infrastructure and services. There are no exceptional circumstances to justify approval of the application.
- R4 Land is still available within the “V” zone of Hang Tau Village. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for more orderly development pattern, efficient use of land and provision of infrastructure and services.

Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site falls entirely within the Village 'Environ' ('VE') of Hang Tau Village;
- (b) the applicant claimed himself as indigenous villager of Sheung Shui Village. His eligibility for Small House concessionary grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy / Building Licence;
- (d) the Site is Old Schedule lot demised for agricultural use;
- (e) the number of outstanding Small House applications in Hang Tau Village is 53. As provided by the Indigenous Inhabitant Representative of Hang Tau on 31.5.2017, the number of 10-year Small House demand for the whole Hang Tau Village is between 2,900 and 3,200; and
- (f) the Small House application at the Site submitted by the applicant of the subject application was received on 7.8.2014.

2. Traffic

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

- (a) 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 application in the future. The resulting cumulative adverse traffic impact could be substantial;
- (b) notwithstanding the above, the application only involves construction of one Small House. He considers that the application can be tolerated unless the application is rejected on other grounds; and
- (c) it is noted that the pedestrian access to the Site is via a local village footpath connecting Hang Tau Road. The local village footpath leading to the Site is not managed by the Transport Department. The land status, management and maintenance responsibilities of the local village footpath should be clarified with the relevant lands and maintenance authorities accordingly.

3. Environment

3.1 Comments of the CE/MN, DSD:

the Site is in an area where no public sewerage connection is available.

3.2 Comments of the Director of Environmental Protection (DEP):

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

4. Drainage

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

- (a) he has no comment on the application and the drainage proposal from public drainage perspective;
- (b) should the application be approved, a condition should be included to request the applicant to implement the agreed drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the implementation of the drainage proposal should be at the applicant's own cost; and
- (d) the applicant should note that:
 - i. the "existing drainage channel" to which the applicant proposed to discharge the storm water from the Site is not maintained by his office. The applicant should identify the owner of the "existing drainage channel" to which the proposed connection will be made and obtain consent from the owner prior to commencement of proposed works. In the case that it is a local village drains, District Officer (North) , Home Affairs Department should be consulted;
 - ii. the applicant is required to construct and maintain the proposed drainage works properly and rectify the drainage systems 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 systems. For works undertaken outside the lot boundary, prior consent and agreement from DLO/N, LandsD and/or relevant private lot owners should be sought;

- iii. all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drain, channels and watercourses on or in the vicinity of the Site any time during or after the works;
- iv. the lot owner/developer shall take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the developer shall be held responsible for the cost of all necessary repair works, compensation and any other consequences arising there from; and
- v. the applicant shall allow all time free access for the Government and its agent to conduct site inspection on his completed drainage works, if necessary.

5. Water Supply

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

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

6. Agriculture

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

- (a) he does not support the application from agriculture point of view; and
- (b) the Site is currently a fallow land overgrown with seeds. Agricultural activities are active in the vicinity and agricultural infrastructures such as footpath and water source are available. The Site can be used for agricultural activities such as open field cultivation, greenhouses, etc. The Site possesses potential for agricultural rehabilitation.

7. Landscape

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

- (a) he has no objection to the application from the landscape planning perspective;

- (b) according to the aerial photo taken in 2017, existing village houses were located at the adjacent western side of the Site. The surrounding area of the Site is composed of village houses, vacant land, farmland and scattered tree groups. The proposed use is considered not incompatible with the existing landscape setting in proximity;
- (c) based on his site visit conducted on 29.3.2019, the Site was a vacant land covered with self-seeded vegetation, and an undersized existing tree was found at the southern boundary within the Site. Further significant landscape impact arising from the proposed use is not anticipated; and
- (d) in view that there is inadequate space for meaningful landscape within the Site, it is opined that the landscape condition is not recommended, should the application be approved by the Board.

8. Fire Safety

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

he has no specific comment on the application. The applicant is advised 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 the LandsD.

Advisory Clauses

- (a) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works;
- (b) to note the comments of the Director of Environmental Protection that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person;
- (c) to note the comments of the Chief Engineer/Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his 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 his department's standard;
- (d) to note the comments of the Director of Fire Services to observe 'New Territories Exempted Houses - A Guide to Fire Safety Requirements' published by the Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the Lands Department;
- (e) to note the comments of the Commissioner for Transport that the local village footpath leading to the application site is not managed by his department. The land status, management and maintenance responsibilities of the local village footpath should be clarified with the relevant lands and maintenance authorities accordingly; and
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department as follows:
 - i. the implementation of the drainage proposal should be at the applicant's own cost;
 - ii. the "existing drainage channel" to which the applicant proposed to discharge the storm water from the application site is not maintained by his office. The applicant should identify the owner of the "existing drainage channel" to which the proposed connection will be made and obtain consent from the owner prior to commencement of proposed works. In the case that it is a local village drains, District Officer (North) , Home Affairs Department should be consulted;
 - iii. the applicant is required to construct and maintain the proposed drainage works

properly and rectify the drainage systems 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 systems. For works undertaken outside the lot boundary, prior consent and agreement from District Lands Officer/North, Lands Department and/or relevant private lot owners should be sought;

- iv. all existing flow paths as well as the run-off falling onto and passing through the application site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drain, channels and watercourses on or in the vicinity of the application site any time during or after the works;
- v. the lot owner/developer shall take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the developer shall be held responsible for the cost of all necessary repair works, compensation and any other consequences arising there from; and
- vi. the applicant shall allow all time free access for the Government and its agent to conduct site inspection on his completed drainage works, if necessary.