

**Interim Criteria for Consideration of Application for
New Territories Exempted House/Small House in New Territories
(revised on 7.9.2007)**

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;

- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development*);
- (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
- (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.

*i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Similar s.16 Application for
Proposed House (New Territories Exempted House – Small House)
Within the Same “V” Zone and Adjoining “AGR” Zone
on the Approved Shek Kong Outline Zoning Plan No. S/YL-SK/9**

Rejected Application

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/YL-SK/200	Proposed House (New Territories Exempted House - Small House)	23.5.2014	R1 – R2

Rejection Reasons

- R1 The proposed Small House development is not in line with the planning intention of the “Agriculture” (“AGR”) zone, which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention.
- R2 The application does not comply with the Interim Criteria for assessing planning applications for New Territories Exempted House (NTEH)/Small House development in that the site and the proposed NTEH/Small House footprint fall entirely outside the village ‘environs’ for Lin Fa Tei and majority of the site is located outside the “Village Type Development” (“V”) zone for Lin Fa Tei, Shui Lau Tin, Shui Tsan Tin and Ngau Keng. 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. The applicant fails to demonstrate in the submission why suitable sites within the areas zoned “V” could not be made available for the proposed development. Besides, the proposed development would set an undesirable precedent for other similar applications, resulting in piecemeal development and destroying the tranquil nature of the rural area. There is no exceptional circumstance to justify approval of the application.

Detailed Comments from the Relevant Government Departments

Land Administration

1. Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD):
 - (a) The Site is an Old Schedule Agricultural Lot held under the Block Government Lease.
 - (b) The Site does not fall within any approved Village Environs Boundary (VEB) of recognized village. Up to this moment, there is no approved VEB for Ngau Keng.
 - (c) According to his records, the Site is not covered by any Modification of Tenancy or Building Licence.
 - (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
 - (e) According to his records, a Small House (SH) application on the Site was received by his office on 14.9.2016 from the applicant of the S.16 application. The indigenous villager's status and eligibility of the applicant has not yet been verified. The SH application was subsequently rejected by his office and the applicant was required to obtain planning permission from the Town Planning Board (the Board) before the SH application could be further processed. Should planning approval be given to the subject planning application, the registered lot owner should inform DLO/YL, and DLO/YL will consider the SH application acting in the capacity as the landlord at its sole discretion in accordance with the New Territories (NT) SH policy when the application is due for processing, including verification of the SH applicant's status. There is no guarantee that such application would be approved. Any application, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by LandsD.
 - (f) The numbers of outstanding and approved Small House applications are 10 and 74 for Ngau Keng, 95 and 339 for Lin Fa Tei, 60 and 135 for Shui Lau Tin, and 20 and 69 for Shui Tsan Tin respectively. Pending the results of the appeal against the judgement of the Court of First Instance of the High Court on the judicial review of the SH Policy, LandsD will continue to suspend the processing of applications of Government land through Private Treaty Grant (PTG) and Land Exchange for building SHs already received, as well as the receipt of new applications for the above two types of grants.
 - (g) The 10-year forecast of SH demand is 80 for Ngau Keng (2015-2024), 405 for Lin Fa Tei (2017-2026), 380 for Shui Lau Tin (2016-2025) and 370 for Shui Tsan Tin (2015-2024). The 10-year forecast is provided by the Indigenous Inhabitant Representative of the respective villages, and DLO/YL is unable to verify such information.
 - (h) If a proposed SH site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned SH application will be rejected under the NT SH Policy, even though the applicant is an indigenous villager who has successfully sought planning permission.

Agriculture and Nature Conservation

2. Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
 - (a) The Site is currently an abandoned land. Agricultural activities are active in the vicinity, and agricultural infrastructure such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses a potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
 - (b) Noting the Site is abandoned, he has no adverse comments on the application from nature conservation perspective.

Environment

3. Comments of the Director of Environmental Protection (DEP):
 - (a) In view of the small population and nature of the proposed development, 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 Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the EPD" and are duly certified by an Authorized Person (AP).
 - (b) The applicant is reminded to duly address the potential noise impacts through the provision of suitable mitigation measures to ensure compliance with the relevant planning standards and statutory requirements.

Drainage

4. Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD):
 - (a) He has no in-principle objection to the proposed development from the public drainage point of view.
 - (b) Should the application be approved, approval conditions requiring the applicant (i) to submit a drainage proposal and (ii) to implement the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Board should be included.
 - (c) The applicant should be reminded to maintain all the drainage facilities on site in good condition and ensure that the proposed development would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.

Water Supplies

5. Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD):
 - (a) He has no objection to the application.
 - (b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Landscape

6. Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD):
 - (a) He has no objection to the application from the landscape planning perspective.
 - (b) Referring to the aerial photo taken on 13.3.2018, the Site is situated in an area of rural landscape character comprising scattered tree groups, village houses and abandoned farmlands. Village houses are found within the same "V" zone of the application. The proposed development is considered not incompatible with the surrounding environment.
 - (c) Referring to the site visit dated 29.9.2019, the Site is vacant and covered with groundcovers. One existing *Melaleuca quinqueyneria* (白千層) in good condition is found within the Site. Referring to the layout plan submitted by the applicant, the proposed layout is not in direct conflict with the existing trees. Significant adverse impact on landscape resources due to the proposed development is not anticipated.

Traffic

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

Considering there is neither parking provision nor vehicular access to the lot and the induced traffic is minimal, he has no comment on the application.
8. Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW of HyD):
 - (a) The access between Kam Sheung Road and the Site is not and will not be maintained by HyD.
 - (b) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Fire Safety

9. Comments of the Director of Fire Services (D of FS):
 - (a) He has no specific comment on the application.
 - (b) The applicant is reminded to observe the “New Territories Exempted Houses (NTEHs) – A Guide to Fire Safety Requirements” published by LandsD.

Building Matters

10. Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD):
 - (a) Noting that the building to be erected on the Site will be NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), DLO/YL of LandsD should be in a better position to comment on the application.
 - (b) In case DLO/YL 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 Authorized Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP’s advice for details.

District Officer’s Comments

11. Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL of HAD):

He has not received any comments from locals upon close of consultation and he has no particular comments on the application.

Demand and Supply of Small House Sites

12. According to the DLO/YL’s latest records, the total number of outstanding SH applications of Ngau Keng, Lin Fa Tei, Shui Lau Tin and Shui Tsan Tin (the Villages) is 185 (i.e. equivalent to 4.63 ha), while the 10-year SH demand forecast for the Villages is 1,235 (i.e. equivalent to 30.88 ha). According to the latest estimate by PlanD, about 28 ha (i.e. equivalent to about 1,120 SH sites) of land is available within the “V” zone to meet the demand of SHs.

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD) that:
- (i) The Site is an Old Schedule Agricultural Lot held under the Block Government Lease.
 - (ii) The Site does not fall within any approved Village Environs Boundary (VEB) of recognized village. Up to this moment, there is no approved VEB for Ngau Keng.
 - (iii) According to his records, the Site is not covered by any Modification of Tenancy or Building Licence.
 - (iv) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
 - (v) The registered lot owner should inform DLO/YL, and DLO/YL will consider the SH application acting in the capacity as the landlord at its sole discretion in accordance with the New Territories (NT) SH policy when the application is due for processing, including verification of the SH applicant's status. There is no guarantee that such application would be approved. Any application, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by LandsD.
 - (vi) If a proposed SH site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned SH application will be rejected under the NT SH Policy, even though the applicant is an indigenous villager who has successfully sought planning permission.
- (b) to note the comments of the Director of Environmental Protection (DEP) that in view of the small population and nature of the proposed development, 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 Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the EPD" and are duly certified by an Authorized Person (AP). The applicant is reminded to duly address the potential noise impacts through the provision of suitable mitigation measures to ensure compliance with the relevant planning standards and statutory requirements.
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) that the applicant is reminded to maintain all the drainage facilities on site in good condition and ensure that the proposed development would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.

- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD) that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW of HyD) that the access between Kam Sheung Road and the Site is not and will not be maintained by HyD. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.
- (f) to note the comments of Director of Fire Services (D of FS) to observe the "New Territories Exempted Houses (NTEHs) – A Guide to Fire Safety Requirements" published by LandsD.
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD) that in case DLO/YL, LandsD 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 AP should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP's advice for details.