

**Relevant Revised Interim Criteria for Consideration of Application for
NTEH/Small House in the 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.

TOWN PLANNING BOARD GUIDELINES FOR
APPLICATION FOR DEVELOPMENT WITHIN GREEN BELT ZONE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

(Important Note :

The guidelines are intended for general reference only. The decision to approve or reject an application rests entirely with the Town Planning Board and will be based on individual merits and other specific considerations of each case.

Any enquiry on this pamphlet should be directed to the Planning Information and Technical Administration Unit of the Planning Department, 17th Floor, North Point Government Offices, 333 Java Road, Hong Kong - Tel. No. 2231 5000.

These guidelines are liable to revision without prior notice. The Town Planning Board will only make reference to the guidelines current at the date on which it considers an application.)

1. Introduction

- 1.1 The planning intention of the "Green Belt" ("GB") zone is primarily to promote the conservation of the natural environment and to safeguard it from encroachment by urban-type developments.
- 1.2 The "GB" zone covers mainly slopes and hillsides, most of which is naturally vegetated. Some "GB" areas are also designated as Country Parks. Most of the land within the "GB" zone is Government land, although there are also small pockets of private land, generally near built-up areas.
- 1.3 The main purposes of the "GB" zone include the following :
 - a. to conserve existing landscape features, areas of scenic value and areas of recognised "fung shui" importance;
 - b. to define the outer limits of urbanized districts and to serve as a buffer between and within urban areas; and
 - c. to provide additional outlets for passive recreational uses.
- 1.4 To preserve the character and nature of the "GB" zone, the only uses which will always be permitted by the Town Planning Board (the Board) are compatible uses which are essential and for public purpose such as waterworks, water catchment areas, nature reserves, agriculture, forestry and certain passive recreational uses. Other uses, including government/institution/community (G/IC), residential development and public utility installations will require planning permission from the Board and each proposal will be assessed on its individual merits. Applications for development will be considered by the Board according to the criteria set out below.

2. Main Planning Criteria

- 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.

Previous s.16 Planning Applications at the Application Site

Applications

Application No.	Proposed Development	Date of Consideration (RNTPC/TPB)	Approval Conditions
A/SK-CWBN/16	Proposed Three Houses (New Territories Exempted Houses - Small Houses)	24.2.2012 Reject by RNTPC	(a) to (d)
A/SK-CWBN/25	Proposed 3 Houses (New Territories Exempted Houses - Small Houses)	21.2.2014 Reject by RNTPC 7.11.2014 Rejected by TPB on Review	(a), (d) and (e)

Main Reasons for Rejection:

- (a) The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone which was primarily for defining 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 in "GB" zone. There was no strong planning justification in the submission for a departure from the planning intention of "GB" zone.
- (b) The proposed development was also not in line with Town Planning Board Guidelines No.10 in that the proposed development of houses with raised building platform and retaining walls of about 4m high would cause adverse landscape impact on the area.
- (c) The proposed development did not comply with the 'Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories' as the proposed development would have adverse landscape impact on the surrounding areas. There was insufficient information to demonstrate that the proposed development would not have adverse landscape and drainage impacts on the surrounding areas.
- (d) Approval of the application would set an undesirable precedent for similar applications within the "GB" zone on the Outline Zoning Plan. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.
- (e) The proposed development is not in line with the Town Planning Board Guidelines No.10 and

the 'Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories' in that extensive clearance of natural vegetation has been involved and the planning intention of the "GB" zone would be jeopardized.

1. Land Administration

Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no objection to the application on private land for Small House (SH) development and landscaping works, but it would be premature to consider the application area on Government land (GL) without having prior agreement by the relevant departments and this office on the extent of GL to be affected by the slope stability works and associated works;

Site A (2 SH, Slope Stability Work and Associated Excavation and Filling of Land on 12 Private Lots and Adjoining GL)

- (b) Site A is mainly located on Lot Nos. 416 S.A ss.1, 416 S.B, 416 S.C ss.1, 416 S.C ss.2, 416 S.C RP, 416 RP, 417 S.A ss.1, 417 S.A ss.2 S.A, 417 S.A ss.2 S.B, 417 S.A ss.2 RP, 417 S.A RP & 417 S.B in D.D. 238 which are held under the Block Government Lease demised for agricultural uses. No structure is allowed to be erected on the lots without prior written approval from this office pursuant to the lease restriction;
- (c) two SH applications have been received from the applicants at Lot Nos. 416 S.C RP, 417 S.A ss.2 RP and adjoining GL in D.D. 238; and Lot Nos. 416 S.A ss.1, 416 RP, 417 S.A RP, 417 S.B and adjoining GL in D.D.238 respectively. The layout and position of the 2 proposed houses under the SH applications are significantly different from that shown on Figure 5 of the subject Planning Application. Notwithstanding the planning permission may be given, there is no guarantee that the SH applications will be approved. The layout, position and configuration etc. of the proposed SH would be subject to approval;
- (d) prior written permission should be obtained from the relevant departments and this office before commencement of any works in GL. No tree felling/trimming and planting/replanting on GL is allowed unless prior written approval has been given by the relevant departments and DLO/SK;
- (e) Paragraphs 1.4, 4.10 (Item 3 of Table 2) and 4.14 of Planning Statement (**Appendix Ia**) are misleading to state that the 2.75ha of land required was advised by this office. In fact, the land required was derived from the previous 10-year SH Demand Forecast which was provided by the Indigenous Inhabitant Representative (IIR) the village and had not been verified by this office;

Site B (Sitting-out Area on 3 Private Lots)

- (f) Site B is located on Lot Nos. 332 S.A, 322 RP and 416 S.A RP in D.D.238 which are held under the Block Government Lease demised for agricultural uses. No structure is allowed to be erected on the lots without prior written approval from this office pursuant to the lease restriction;

Outstanding Small House(SH) Applications

- (g) the number of outstanding SH applications in Pan Long Wan Village is 56 (including the 2 SH applications from the applicants of the subject planning application, i.e. LAU Tin Chi Eric and LAU Yip Po Frankie);

10-year SH Demand Forecast

- (h) as advised by the IIR of Pan Long Wan Village, the 10-year SH demand forecast for the village is 115. Please note that the figure has not been verified by DLO/SK. The amount of land covered is not available;

2. Traffic

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

- (a) he has reservation on the application;
- (b) 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 at the current “GB” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (c) notwithstanding the above, the application only involves construction of two NTEH – Small House. He considers that the application can be tolerated unless it is rejected on other grounds; and
- (d) the access road leading to the Site is not managed by the Transport Department. The status of the road should be checked with the lands authority. The management and maintenance responsibilities of the same road should be clarified with the relevant lands and maintenance authorities accordingly.

3. Environment

Comments of the Director of Environmental Protection (DEP):

it is noted that the Site falls within an area zoned “GB” on the OZP. The scope of the proposed development comprises of two 3-storey houses. In view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.

4. Landscape

Comments of the CTP/UD&L, PlanD:

- (a) she has reservations on the application from the landscape planning point of view;
- (b) both Site A and B are situated on an existing slope within “Green Belt” (“GB”) and sandwiched by “Village Type Development” (“V”). With reference to the site visit conducted on 31.5.2019, there is no major vegetation identified within the Sites. However, with comparison of aerial photos taken between 2012 and 2015, Site A was originally located in a woodland with lush vegetation, and subsequently being turned into a grassland without any tree atop. Blanket vegetation clearance has been conducted during the period;
- (c) the existing “GB” serves as a natural buffer between villages. Given the existing topography, with the proposed retaining structure, the development will involve

permanent change in landform within the "GB", and hence destroying the natural buffer;

- (d) in view of above, it is anticipated significant adverse landscape impact will be imposed to the Sites and surrounding, which also deviates undesirably from the planning intention of "GB" zone. Approval of the application may cause a ripple effect for other applications in "GB", and hence degradation of the natural landscape character of the area with irreversible impact; and
- (e) since there is no major public frontage along the site boundary and clustered tree groups are found in close proximity of the Site, it is considered not necessary to impose a landscape condition should the application be approved by the TPB, as its effect on enhancing the quality of public realm is not apparent.

5. Sewerage

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

as the concerned lot is currently not covered by DSD public sewerage networks, views on sewage treatment / proposal should be sought from the DEP direct.

Comments of DEP:

- (a) it is noted that the applicant is committed to install sewage septic tank with a soakaway system for sewage treatment for the proposed development. The applicant is reminded that the design and construction of the septic tank system shall follow the requirements of Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by EPD" and are duly certified by an Authorized Person (AP) as per the following standard advisory clause on design of septic tank and soakaway system:

"note the Director of Environmental Protection's advice 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 EPD" and are duly certified by an Authorized Person (AP)"

- (b) the applicant is also advised to connect to the public sewerage system when available.

6. Drainage

Comments of the CE/Mainland South, DSD:

- (a) no in-principle objection to the application from drainage maintenance viewpoint;
- (b) the existing drainage system to which the proposed drainage connection is to be made is not maintained by his department, consent from the Home Affairs Department should be obtained for the proposed connections to their drainage systems; and

- (c) the applicants should ensure adequate stormwater drainage collection and disposal facilities would be provided in connection with the proposed use to deal with the surface runoff of the Sites or the same flowing on to the Sites from the adjacent areas without causing any adverse drainage impact to the areas or nuisance to the adjoining area.

7. **Building Matters**

Comments of the Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) no comment under Buildings Ordinance;
- (b) all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance; and
- (c) Authorised Person must be appointed for the site formation and communal drainage works referred to (b) above.

8. **Nature Conservation**

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

it is noted that the proposed Site A consists of some common tree, shrubs and herbaceous plants, while limited vegetation is found at Site B. DAFC has no strong view on the application.

9. **Fire Safety**

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

- (a) no comment on the application; and
- (b) the applicant is advised to observe the “New Territories Exempted House – A Guide to fire safety Requirements” published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department.

10. **Water Supply**

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

- (a) 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 standards.

11. Electrical Safety

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

- (a) no particular comment from electricity supply safety aspect; and
- (b) in the interest 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 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.

12. Demand and Supply of Small House Sites

According to DLO/SK, LandsD, the number of outstanding Small House applications in Pan Long Wan is about 56 while the 10-year SH demand forecast for the village is 115. According to the latest estimate by PlanD, it is estimated that about 1.98ha of land (equivalent to about 79 Small House sites) is available within “V” zone of Pan Long Wan Village. Therefore, the land available in Pan Long Wan cannot fully meet the future Small House demand for 171 Small House sites.

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD) that:
 - (i) notwithstanding the planning permission may be given, there is no guarantee that the Small House (SH) applications will be approved. The layout, position and configuration etc. of the proposed SHs would be subject to approval; and
 - (ii) prior written permission should be obtained from the relevant departments and DLO/SK before commencement of any works in government land (GL). No tree felling/trimming and planting/replanting on GL is allowed unless prior written approval has been given by the relevant departments and DLO/SK;
- (b) to note the comments of the Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department that all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with Buildings Ordinance; and Authorised Person must be appointed for the site formation and communal drainage works;
- (c) to note the comments of the Director of Fire Services that the applicant is advised to observe the “New Territories Exempted House – A Guide to Fire Safety Requirements” published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (d) 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 EPD” and are duly certified by an Authorized Person (AP). The applicant is also advised to connect to the public sewerage system when available;
- (e) to note the comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) that the existing drainage system to which the proposed drainage connection is to be made is not maintained by his department, consent from the Home Affairs Department should be obtained for the proposed connections to their drainage system; and the applicants should ensure adequate stormwater drainage collection and disposal facilities would be provided in connection with the proposed use to deal with the surface runoff of the Sites or the same flowing on to the Sites from the adjacent areas without causing any adverse drainage impact to the areas or nuisance to the adjoining area;
- (f) to note the comments of the Chief Engineer/ Construction, Water Supplies Department that for provision of water supply to the development, the applicants may need to extend their inside services to the nearest suitable government water mains for connection. The applicants 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; and
- (g) to note the comments of the Director of Electrical and Mechanical Services that in the interest 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 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.