

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

**(A) Explanatory Notes on NTEH/Small House Development Exempted from
Planning Application**

- (a) for NTEH/Small House development on a site straddling the “Village Type Development” (“V”) zone and other land use zones, planning permission will not be required if the proposed NTEH/Small House footprint falls wholly within the “V” zone;
- (b) planning permission will also not be required if not less than 50% of the footprint of a Small House falls within the “V” zone and the village ‘environs’ (‘VE’) of a recognized village;
- (c) the above exemption from planning application is not applicable to any NTEH/Small House development on a site encroaching on:
 - (i) conservation-related zones (such as “Coastal Protection Area”, “Conservation Area”, “Site of Special Scientific Interest”) and “Country Park”;
 - (ii) “Green Belt” zone;
 - (iii) “Open Space” (“O”) zone involving Government land, or where the proposed NTEH/Small House footprint encroaching on the “O” zone;
 - (iv) water gathering grounds; and
 - (v) area shown as ‘Road’.
- (d) notwithstanding (c) above, if only a very minor portion of the site (5% or 10m², whichever is the less) falls outside the “V” zone (regardless of the other zoning(s) involved), it will be regarded as minor boundary adjustment always permitted under the covering Notes of the relevant Outline Zoning Plan/Development Permission Area Plan provided that no tree felling is involved and no adverse impacts are envisaged.

(B) Assessment Criteria for Planning Application

- (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.

(Revised on 7th September 2007)

TPB PG-NO. 10

**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.

Summary of Previous Applications

Application No.	Proposed Use	Date of Consideration	Decision of RNTPC/TPB	Rejection Reasons
A/SK-TMT/53	NTEH (Small House)	10.6.2016	Rejected	(a), (b), (c), (d) and (e)
A/SK-TMT/57	NTEH (Small House)	23.3.2018	Rejected upon review	(a), (b), (c), (d) and (f)

Rejection Reasons

- (a) Not in line with the planning intention of the “GB” zone.
- (b) Not in line with the Interim Criteria for Assessing Planning Application for New Territories Exempted House/Small House.
- (c) Not in line with Town Planning Board Guidelines No. TPB PG-No. 10 for ‘Application for Development within “GB” Zone’.
- (d) Applicant fails to demonstrate that the proposed development would have no adverse landscape impact in the “GB” zone and would not affect slope stability.
- (e) Approval of the application would set an undesirable precedent for other similar applications within the “GB” zone.
- (f) Land is still available within the “Village Type Development” zone of Tai Po Tsai where land is primarily intended for Small House development.

Summary of Similar Application

Application No.	Proposed Use	Date of Consideration	Decision of RNTPC/TPB	Rejection Reasons
A/SK-TMT/31	Four NTEHs (Small House)	23.12.2011	Rejected upon review	(a), (b), (c), (d) and (e)

Rejection Reasons

- (a) Not in line with the planning intention of the “GB” zone.
- (b) Not in line with the Interim Criteria for Assessing Planning Application for New Territories Exempted House/Small House.
- (c) Not in line with Town Planning Board Guidelines No. TPB PG-No. 10 for ‘Application for Development within “GB” Zone’.
- (d) No information in the submission to demonstrate that the proposed Small House development within the lower indirect water gathering ground would not pose adverse impact on the water quality of the area.
- (e) Approval of the application would set an undesirable precedent for other similar applications within the “GB” zone.

Comments from Relevant Government Departments

1. Land Administration

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

- (a) no objection to the application;
- (b) the Site is located on Lot No. 33 RP in D.D. 256 which is an Old Scheduled Agricultural Lot;
- (c) the Site and the proposed Small House footprint fall completely within the village environs of Tai Po Tsai in Sai Kung Heung which is a recognised village under the New Territories Small House Policy;
- (d) the Indigenous Inhabitant Representative (IIR) of Tai Po Tsai has not provided the latest figure on the 10-year Small House forecast, but according to the last available figure provided by the IIR in early 2015, the 10-year Small House demand forecast for the village was 87. The number of outstanding Small House applications (including the proposed Small House under application) falling within and outside the “V” zone in Tai Po Tsai are 13 and 5 respectively;
- (e) the applicant, Mr. CHEUNG Chun Wa, has applied for a Small House grant by way of Free Building Licence at the Site. He has been certified as an indigenous villager of Tai Po Tsai by the IIR of the village; and
- (f) the Small House application has not yet been approved. A valid planning permission is required for further processing for the applicant’s Small House application.

2. Traffic

Comments of the Commissioner for Transport (C for T)

no comment on the application from traffic engineering perspective.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) does not support the application; and
- (b) the proposed sewage treatment and disposal method of the current application is the same as the previous planning application No. A/SK-TMT/57. The proposed use of septic tank and soakaway system for treating wastewater is not acceptable within the lower indirect WGG without public sewerage connection available in the vicinity.

4. **Landscape**

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

- (a) reservations on to the application from landscape planning perspective;
- (b) with reference to the aerial photograph in 2019, the Site is fully covered by vegetation and existing tree groups are observed along the perimeter of the Site. The Site is situated in an area of settled valleys landscape character dominated by dense woodland and some village houses. The proposed development is considered not entirely compatible with the landscape setting in proximity;
- (c) although the applicant states in the application that no tree felling would be involved in the proposed development, no information on existing trees and their proposed treatments is provided in the application, the potential landscape impact arising from the proposed development to the existing landscape resources cannot be reasonably ascertained;
- (d) noting that no existing vehicular access to the Site is available, formation of temporary and/or permanent access road from Yan Yee Road to the Site may be required during the construction stage for delivery of building materials and machinery. The existing landscape resources would probably be affected if construction of the said access road is required, and such information, including the proposed size and alignment of the access road and the existing trees to be affected, should also be included in the application for review;
- (e) with reference to the Landscape Plan, 62 nos. of trees are proposed to be planted at the northwestern portion and along the perimeter of the Site. However, information on the proposed tree location, size and plant spacing is not provided in the application. In view of the limited available space within the Site and there is existing vegetation in the

surrounding, she has concern about the practicability of the proposed planting scheme as there is insufficient growing space for the proposed tree planting;

- (f) there is concern that approval of the application would set an undesirable precedent to encourage other similar applications to the vegetated area of the “GB” zone. The cumulative effect of which would result in a general degradation of the landscape quality of the surrounding area and undermine the planning intention of the “GB” zone; and
- (g) the applicant is reminded that approval of section 16 application under the Town Planning Ordinance does not imply approval of tree preservation/removal scheme under the Lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

5. **Sewerage and Drainage**

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

- (a) the proposed house is located in very close proximity of an existing streamcourse which is a key drainage to convey stormwater runoff from the upstream catchment; and
- (b) no in-principle objection to the application from drainage maintenance viewpoint provided that adequate stormwater drainage collection and disposal facilities would be provided in connection with the proposed use to deal with surface runoff of the Site or the same flowing on to the Site from the adjacent areas without causing any adverse drainage impact to the areas or nuisance to the adjoining areas; and all the proposed works including site formation works would be situated at 3m away from the top of the bank of the nearby streamcourse;

6. **Building Matters**

Comments of the Chief Building Surveyor/NTE2 & Rail, Buildings Department (CBS/NTE2 & Rail, BD)

- (a) no comment under the Buildings Ordinance (BO) for the subject application; and
- (b) the applicant should be reminded that all non-exempted ancillary site formation and/or communal drainage works are subject to compliance with the BO, and the Authorised Person must be appointed for the aforesaid site formation and communal drainage works.

7. **Nature Conservation**

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

no strong view on the application.

8. **Fire Safety**

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

- (a) no objection in principle to the application; and
- (b) the applicant is reminded to observe ‘New Territories Exempted Houses – 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.

9. **Water Supply**

Comments from Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD)

- (a) objection to the application; and
- (b) the Site is located within the lower indirect water gathering ground (WGG). There is no information in the application to indicate that the proposed house can be connected to the public sewerage system in the area. The wastewater generated from the proposed house will have potential to cause pollution to the WGG. It is thus considered that compliance with the “Interim Criteria for Consideration of Applications for NTEH/Small House in N.T.” Item (B) (i) cannot be established.

10. **Geotechnical**

Comments from Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD)

- (a) in-principle objection to the application unless the applicant is prepared to undertake a

Natural Terrain Hazard Study (NTHS);

- (b) the requirement of NTHS could incur significant cost implication and render the development not economically viable. Nevertheless, if the applicant considers that the development is economically viable and wishes to proceed with the development of the Site, the applicant is required to carry out a NTHS and provide suitable mitigation measures, if found necessary, as part of the development; and
- (c) according to CEDD's records, the same applicant submitted a Geotechnical Planning Review Report (GPRR) to support the previous application No. A/SK-TMT/57 in December 2016. The applicant committed to undertake an NTHS and to carry out any necessary mitigation measures as part of the development in the previously submitted GPRR. The applicant should confirm their commitment to undertake an NTHS and to carry out necessary mitigation measures as part of the development by submitting a GPRR for the current application.

11. Demand and Supply of Small House Sites

According to DLO/SK, the outstanding Small House applications in Tai Po Tsai Village is about 18 while the 10-year Small House Demand Forecast for Tai Po Tsai Village is 87. According to the latest estimation by PlanD, about 1.8 ha of land (equivalent to about 72 Small House sites) are available within the "V" zone of Tai Po Tsai Village. Therefore, the land available in Tai Po Tsai Village cannot fully meet the future Small House demand for 105 Small House sites.

Advisory Clauses

- (a) to note the comments of the Chief Town Planner/Urban Design & Landscape, Planning Department that approval of section 16 application under the Town Planning Ordinance does not imply approval of tree preservation/removal scheme under the Lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate;
- (b) to note the comments of the Director of Fire Services that the applicant is reminded to observe 'New Territories Exempted Houses – 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; and
- (c) to note the comments of the Chief Building Surveyor/New Territories East 2 & Rail, Building 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; and
- (d) to note the comments of Chief Engineer/Mainland South, Drainage Services Department that:
 - (i) adequate stormwater drainage collection and disposal facilities would be provided in connection with the proposed developments to deal with the surface runoff of the Site or the same flowing on to the Site from the adjacent areas without causing any adverse drainage impacts or nuisance to the adjoining areas; and
 - (ii) all the proposed works including site formation works would be situated at 3m away from the top of the bank of the nearby steamcourse.