

**Relevant Interim Criteria for Consideration of
Application for 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.

**Similar S.16 Applications for Proposed House (NTEH – Small House)
within the “Agriculture” zone in the vicinity of the Site
in the Lung Yeuk Tau and Kwan Tei South Area**

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-LYT/569	Proposed New Territories Exempted House (NTEH) (Small House)	19.6.2015	R1 & R2
A/NE-LYT/571	Proposed New Territories Exempted House (NTEH) (Small House)	19.6.2015	R1 & R2
A/NE-LYT/641	Proposed New Territories Exempted House (NTEH) (Small House)	27.4.2018 (on review)	R1 & R3

Rejection Reasons

- R1 The proposed development was not in line with the planning intention of the “Agriculture” zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention.
- R2 Land was still available within the “Village Type Development” zone of Lau Shui Heung Village which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services.
- R3 The approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area.

Detailed 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 'VE' of Lau Shui Heung Village;
- (b) the applicant claimed himself as an indigenous villager of Lau Shui Heung Village of Fanling Heung but his eligibility for Small House grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy/Building License;
- (d) the number of outstanding Small House application for Lau Shui Heung is 23 and the number of 10-year Small House demand forecast (2016 to 2027) is 180 according to the latest available information. The figure of the 10-year Small House demand forecast was provided by the relevant Indigenous Inhabitant Representative in 2017 without any supporting evidence and there is no update since then. His office is not in a position to verify the forecast; and
- (e) the Small House grant application in respect of the Site was received by his office on 22.8.2013 but the application was rejected in November 2019 as the applicant could not obtain a planning permission.

2. Traffic

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

- (a) she 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 applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the application only involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution;
- (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 ProPECC PN 5/93 "Drainage Plans subject to Comment by the

Environmental Protection Department” and are duly certified by an Authorized Person; and

- (c) it is noted that there is no existing sewerage in the vicinity. The applicant should also be reminded to take appropriate measures as listed in the EPD guideline “Recommended Pollution Control Clauses for Construction Contracts” to prevent contaminated surface runoff and other wastewater from being discharged into the river during construction stage. A web link to the said guideline is shown below: http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html

4. Landscape

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

- (a) she has some reservation on the application from the landscape planning point of view;
- (b) based on the aerial photo of 2019, the Site is located in an area of settled valleys landscape character comprises clusters of trees, abandoned farmland, village houses and densely vegetated woodland within an area zoned “Green Belt” to the further east and southwest of the Site. Shrubs and groundcovers are observed within and the surrounding the Site;
- (c) in view of the site context within and surrounding the Site, the applied use, in the midst of the largely uninterrupted landscape is considered not entirely compatible with the landscape character of the area. There is no existing access to the Site, the proposed development may involve future clearance of existing vegetation in the vicinity. However, there is insufficient information of such works, the potential landscape impact could not be ascertained. The proposed development, if approved, would set an undesirable precedent of landscape character alteration, and would encourage more similar development within the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment; and
- (d) it is noted that there is no major public frontage along the site boundary, should the Board approved the application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

5. Drainage

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

- (a) he has no in-principle objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

6. Agriculture

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

- (a) the Site is currently an abandoned land. Agricultural activities such as road access and water resource are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouse, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from the agricultural point of view; and
- (b) there is a natural stream to the southwest of the Site. Should the application be approved, appropriate measures should be undertaken, especially during the construction stage, to prevent the development from polluting the nearby stream.

7. Fire Safety

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

- (a) he has no in-principle objection to the application; and
- (b) the applicant is reminded 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 LandsD.

8. 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 the 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.

9. District Officer's Comments

Comments of the District Officer (North), Home Affairs Department (DO(N),HAD):

he has consulted the locals regarding the application. The Chairman of the Fanling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Lau Shui Heung have no comment on the application.

10. Demand and Supply of Small House Sites

According to DLO/N's records, the total number of outstanding Small House application for Lau Shui Heung Village is 23 while the 10-year Small House demand forecast (2016 to 2027) provided the relevant Indigenous Inhabitant Representative in 2017 for the same village is 180 according to the latest available information. According to the latest estimate by PlanD, about 0.43 ha (equivalent to 17 Small House sites) of land are available within the "V" zone of Lau Shui Heung Village. There is insufficient land in the "V" zone of Lau Shui Heung

Village to meet the demand of Small Houses (i.e. about 5.08 ha of land which is equivalent to 203 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend the inside services to 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (b) to note the comments of D of FS that the applicant should 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 LandsD;
- (c) to note the comments of CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (d) to note the comments of DAFC that appropriate measures should be undertaken, especially during the construction stage, to prevent the development from polluting the nearby stream;
- (e) to note the advice of DEP on the following:
 - (i) 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 ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person; and
 - (ii) the applicant should take appropriate measures as listed in the EPD guideline "Recommended Pollution Control Clauses for Construction Contracts" to prevent contaminated surface runoff and other wastewater from being discharged into the river during construction stage of the project. A web link to the said guideline is shown below: http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html; and
- (f) 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.