

Relevant Revised 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) 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 Applications
in the vicinity of the Site within the same “Agriculture” Zone
on the Kau Lung Hang Outline Zoning Plan

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/331	Proposed House (New Territories Exempted House) (NTEH) (Small House)	15.4.2005	A1 – A6
A/NE-KLH/386	Proposed House (New Territories Exempted House - Small House)	24.7.2009	A1 – A7
A/NE-KLH/451	Proposed House (New Territories Exempted House - Small House)	8.2.2013	A1 – A4
A/NE-KLH/452	Proposed House (New Territories Exempted House - Small House)	7.6.2013	A1 – A4

Approval Conditions

- A1. The submission and implementation of landscape proposal and/or tree preservation proposal
- A2. The submission and implementation/provision of drainage proposal/facilities
- A3. The connection of the foul water drainage system to the public sewers
- A4. The provision of protective measures to ensure that no pollution or siltation occurred/would occur to the water gathering grounds
- A5. No blasting, drilling, piling or sinking of wells should be allowed within the application site
- A6. No excavation works should be undertaken prior to obtaining written approval
- A7. The provision of fire fighting access, water supplies and fire service installations

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/309	Proposed New Territories Exempted House (Small House) (NTEH)	25.4.2003	R1 – R4
A/NE-KLH/316	Proposed New Territories Exempted House (NTEH) (Small House)	25.7.2003	R5 – R7
A/NE-KLH/323	Proposed New Territories Exempted House (Small House) (NTEH)	5.12.2003	R7 – R8
A/NE-KLH/326	Proposed New Territories Exempted House (Small House) (NTEH)	27.8.2004	R4, R9, R10
A/NE-KLH/428	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.5.2011	R1, R11
A/NE-KLH/454	Proposed House (New Territories Exempted House - Small House)	5.7.2013	R1, R12 – R14
A/NE-KLH/498	Proposed House (New Territories Exempted House - Small House)	23.10.2015	R1, R15 – R16
A/NE-KLH/557	Proposed House (New Territories Exempted House - Small House)	4.1.2019	R1, R16, R17

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended 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. The proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zone which was to define the limits of urban development areas and there was a general presumption against development within the “GB” zone. No strong justification had been provided in the submission for a departure from the planning intention.
- R3. The proposed NTEH/Small House development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that the land available within the “Village Type Development” zone of Tai Hang Village could meet future Small House demand.

- R4. The approval of the application would set an undesirable precedent for similar applications within the “Agriculture” and “Green Belt” zones. The cumulative effect of approving such applications would result in the encroachment of good quality agricultural land and/or a general degradation of the rural environment of the area.
- R5. The proposed NTEH/Small House development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that the application site fell outside the 'village environs' of Tai Hang Village and there was insufficient information in the submission to demonstrate that there was a general shortage of land in meeting the demand for Small House development in the “V” zone of Tai Hang Village.
- R6. The proposed Small House development encroached upon the 120m no blasting limit of the Tau Pass culvert.
- R7. The proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in the New Territories in that the application site/it was not able to be connected to the existing or planned sewerage system in the area. There was no information in the submission to demonstrate that the proposed development located within the water gathering grounds would not cause adverse impact on water quality in the area.
- R8. The application site fell outside the village 'environs' of Tai Hang Village and there were still land available within the “Village Type Development” zone of Tai Hang/Tai Hang San Wai for future Small House development.
- R9. The application site was located within the flood fringe and was subject to overland flow and inundation during heavy rainfall.
- R10. The proposed New Territories Exempted House (NTEH)/Small House development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that there was sufficient land available within the "Village Type Development" zone of Tai Hang Village to meet future Small House demand.
- R11. 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 in that more than 50% of the footprint of the proposed Small House fell outside both the “Village Type Development” (“V”) zone and the village ‘environs’ of Tai Hang Village; and there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Tai Hang Village.
- R12. 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 in that the site was entirely outside the “V” zone and the village ‘environs’ of any recognized villages and there was still sufficient land available within the “V” zone to fully meet the future Small House demand.
- R13. The applicant failed to demonstrate in the submission why there was no alternative land available within areas zoned “V” for the proposed development.

- R14. The applicant failed to demonstrate that the proposed development located within the water gathering ground would not cause adverse impact on the water quality in the area.
- R15. 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 in that there was no shortage of the land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of Tai Hang.
- R16. Land was still available within the "V" zone of Tai Hang which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- R17. 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 in that more than 50% of the footprint of the proposed Small House fell outside both the "Village Type Development" ("V") zone and the village 'environs' of Tai Hang Village; there was no general shortage of land in meeting the demand for Small House development in the "V" zone of Tai Hang; and the applicant failed to demonstrate that the proposed development located within the Water Gathering Ground would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) does not support the application;
- (b) the applicant claims himself as an indigenous villager of Tai Hang. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the application Site (the Site) is held under Block Government Lease demised for agricultural use. The applicant is the registered owner of the subject lot and the Small House application has been received by LandsD;
- (d) the Site is not covered by any Modification of Tenancy or Building Licence;
- (e) the proposed Small House falls outside the village 'environs' ('VE') of Tai Hang with its footprint falls partly (less than 50%) within the "V" zone encircling a recognized village;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the village concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand *</u>
Tai Hang	32	225

(* The figure of 10-year Small House demand is provided by the Indigenous Inhabitant Representative (IIR) of the concerned village in 2014 and the information so obtained is not verified by LandsD); and

- (g) if and after planning permission has been given by the Town Planning Board (the Board), LandsD will process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the proposed Small House or approval of the emergency vehicular access (EVA) thereto.

2. Traffic

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

- (a) no in-principle objection to the application from traffic engineering point of view; and
- (b) the road/footpath next to the Site is not under Transport Department's

management. The land status, management and maintenance responsibilities of the road and footpath should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within “AGR” and “V” zones, and is within the Water Gathering Ground (WGG). The applicant proposes to connect the proposed Small House to the existing public sewer at the immediate east of the Site. The public sewerage has sufficient capacity to accommodate discharge from the proposed Small House; and
- (b) no objection to the application on the conditions that:
 - (i) the proposed Small House will be connected to the public sewer;
 - (ii) adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer;
 - (iii) written consent(s) can be obtained from the relevant lot owner(s) and/or LandsD for laying and maintaining sewage pipes across the adjacent lot(s), if required; and
 - (iv) the cost of sewer connection will be borne by the applicant.

4. **Landscape**

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

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising scattered tree groups, active and abandoned farmlands, and village houses. Given similar village houses are found in close proximity to the Site, it is not incompatible with the surrounding environment;
- (c) the Site is paved with asphalt and occupied with containers. No existing tree is recorded within the Site. Adverse impact on significant landscape resources is not anticipated; and
- (d) should the application be approved by the Board, in consideration of the nature of the proposed development and there is inadequate space for quality landscape to benefit the public realm, landscape condition is not recommended.

5. Drainage and Sewerage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) there is no existing DSD maintained public drains available for connection in the area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the 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 failure of the systems;
- (d) public sewers are available for connection in the vicinity of the Site. The applicant should be reminded to follow the established procedures and requirements for connecting sewers from the Site to the public sewerage system. A connection proposal should be submitted for approval beforehand. Moreover, the sewerage connection will be subject to DSD's technical audit, for which an audit fee will be charged; and
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

6. Agriculture

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

the Site is paved. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as water source and road access is available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

7. 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 ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by the 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) objects to the application; and
- (b) the Site is located within upper indirect WGG, and there will be less than 50% of the proposed Small House footprint within the “V” zone on the OZP and 100% of that outside the ‘VE’ of Tai Hang. In general, housing development will have the risk of pollution to the WGG. Despite that the applicant proposes to connect his Small House with nearby public sewers, and DEP has indicated no objection to the proposals, WSD considers that there is insufficient information in the applicant’s submission to demonstrate that the proposed development would not cause adverse impact on the water quality in the area.

9. Electricity Supply

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

- (a) no comment on the application from electricity supply safety aspect; and
- (b) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application 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.

10. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Tai Hang is 32 while the 10-year Small House demand forecast for the same villages is 225. Based on the latest estimate by the Planning Department, about 7.98 ha of land (or equivalent to about 319 Small House sites) are available within the “V” zone of Tai Hang. Therefore, the land available can fully meet the Small House demand of 257 houses (equivalent to about 6.43 ha of land).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that if the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the proposed Small House or approval of the emergency vehicular access (EVA) thereto;
- (b) to note the comments of the Commissioner for Transport (C for T) that the road/footpath next to the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the road and footpath should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (c) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) the proposed house should be connected to the public sewer;
 - (ii) adequate land space within the Site should be reserved for connection of the proposed Small House to the public sewer;
 - (iii) written consent(s) should be obtained from the relevant lot owner(s) and/or LandsD for laying and maintaining sewage pipes across the adjacent lot(s), if required; and
 - (iv) the cost of sewer connection should be borne by the applicant;
- (d) to note the comments of the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no existing DSD maintained public drains available for connection in the area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the 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 failure of the systems;
 - (ii) public sewers are available for connection in the vicinity of the Site. The applicant should be reminded to follow the established procedures and requirements for connecting sewers from the Site to the public sewerage system. A connection proposal should be submitted for approval beforehand.

Moreover, the sewerage connection will be subject to DSD's technical audit, for which an audit fee will be charged; and

- (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
- (e) to note the comments of the Director of Fire Services (D of FS) that the applicant should observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (f) to note the comments of Director of Electrical and Mechanical Services (DEMS) that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application 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; and
- (g) 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.