

**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.

Previous s. 16 Application at the Application Site

Approval Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-KLH/389	Proposed Two Houses (New Territories Exempted Houses - Small Houses)	20.11.2009	A1 – A5

Approval Conditions

- A1. The submission and implementation of landscape proposal.
- A2. The provision of drainage facilities.
- A3. The connection of the foul water drainage system to the public sewers .
- A4. The provision of protective measures to ensure no pollution or siltation occurs to the water gathering ground (WGG).
- A5. The provision of fire fighting access, water supplies and fire service installations (FSIs).

**Similar Applications
in the vicinity of the Site within the same “Agriculture” Zone
on the Kau Lung Hang Outline Zoning Plan**

Approved Applications

A/NE-KLH/248	Proposed New Territories Exempted House (NTEH) (Small House)	12.1.2001	A1 – A5
A/NE-KLH/427	Proposed House (New Territories Exempted House (NTEH) - Small House)	20.5.2011	A1, A6 – A9

Approval Conditions

- A1. The submission/provision of drainage facilities.
- A2. The disposal of spoils during the site formation and construction period
- A3. The provision of septic tanks and soakaway pits for foul effluent disposal and the sewerage connection at a distance of not less than 30m from any watercourses.
- A4. The provision of FSIs.
- A5. The submission and implementation of landscaping proposals.
- A6. The submission and implementation of landscape and tree preservation proposal.
- A7. The provision of fire fighting access, water supplies and FSIs.
- A8. The connection of the foul water drainage system to the public sewers.
- A9. The provision of protective measures to ensure no pollution or siltation occurs to WGG.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/302	Proposed New Territories Exempted House (NTEH) (Small House)	13.12.2002	R1, R2

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-KLH/453	Proposed House (New Territories Exempted House - Small House)	19.7.2013	R3
A/NE-KLH/501	Proposed House (New Territories Exempted House - Small House)	2.9.2016 on review	R4, R5

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone which was to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation.
- R2. 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 was located mostly outside the village 'environs' and the “V” zone.
- R3. The proposed development did not comply with the Interim Criteria for Consideration of Applications for NTEH/Small House in the New Territories in that the proposed development would involve tree felling and cause adverse landscape impact on the surrounding area. There was no information in the submission to demonstrate that the proposed development would not have adverse impact on the existing landscape resources within the application site as well as the woodland in the vicinity.
- R4. The proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas.
- R5. Land was still available within the “V” zone of Wai Tau Tsuen which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) no objection to the application;
- (b) the applicant is an indigenous villager of Wai Tau Tsuen of Tai Po as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is held under Block Government Lease demised for agricultural use. The Small House application submitted by the applicant for the Site is still under processing;
- (d) the Site is not covered by any Modification of Tenancy or Building Licence;
- (e) the Site falls outside the village environs ('VE') of Wai Tau Tsuen. At least 50% of the proposed Small House footprint is within the "Village Type Development" ("V") zone encircling the 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 follow:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand *</u>
Wai Tau Tsuen	28	262

(* The figure of 10-year Small House demand was estimated and provided by the IIR of Wai Tau Tsuen and the information so obtained is not verified in any way 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 Small House concerned 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 (TD)'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 has proposed to connect the proposed Small House to the newly constructed public sewerage at the immediate west of the Site. The public sewerage system should be ready for connection within 2019, which has sufficient capacity to accommodate discharge from the proposed Small House; and
- (b) no objection to the application given that:
 - (i) the proposed Small House will be connected to the public sewer;
 - (ii) no actual construction of the proposed Small House until the public sewerage system is available for connection;
 - (iii) adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer;
 - (iv) written consent(s) can be obtained from the relevant lot owner(s) and/or LandsD for laying and maintaining sewage pipes across the adjacent lots; and
 - (v) 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, village houses, active and abandoned farmlands. Although the proposed development is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) the Site is fenced off, vacant and covered with groundcovers. Numbers of existing trees including *Bridelia tomentosa* (土蜜樹), *Ficus hispida* (對葉榕) and *Macaranga tanarius* (血桐) are found within the Site. Although the proposed layout is in direct conflict with existing trees, given the affected trees are common species and can be easily found in local market, significant adverse impact on landscape resources due to the proposed development is not anticipated; and

- (d) should the application be approved by the Board, since the proposed Small House footprint covers most of the Site, there is inadequate space for meaningful landscape to benefit the public realm, landscape condition is not recommended.

5. Drainage and Sewerage

5.1 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 public drain maintained by DSD in the vicinity of the Site. The proposed Small House should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding of the Site. The proposed development is located on the unpaved ground, which will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. 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 be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability and impact on the surrounding environment, and seek comments from other concerned parties/departments if necessary. The applicant should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected; and
- (e) should the applicant choose to connect his proposed sewerage system to DSD's network, they shall furnish DSD with his connection proposal for agreement. After obtaining DSD's agreement, the applicant shall submit a duly completed Form HBP1 with a cross cheque covering the technical audit fee and a plan showing the details of the proposed drainage connection works to DSD for formal application for the required connection. Upon DSD's acceptance of the connection application, the applicant shall carry out the proposed connection works in accordance with DSD's standard drawings at the resources of the applicant. The connection pipe outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD. In addition, to ensure the sustainability of the public sewerage network, the applicant is

required to demonstrate to the satisfaction of DSD in such manner that the runoff within the subject premise will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage connection works, and the applicant will be required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system.

5.2 Comments of the Chief Engineer/Consultant Management, Drainage Services Department (CE/CM, DSD):

- the new public sewerage network constructed under Contract No. DC/2013/01 at Wai Tau Tsuen was completed. The newly completed public sewer is adjoining to the Site. The public sewerage system will be available for connection in late 2019.

6. Agriculture

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

- the Site is overgrown with weeds. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as water source and footpath 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 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 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) the Site is located within upper indirect WGG and more than 50% of the Site is located within the "V" zone. The proposed Small House is able to be connected to public sewerage system; and
- (b) no objection to the application subject to the following conditions:
 - (i) the proposed Small House is able to be connected to the public sewerage system in the area and the applicant shall connect the whole of its foul

water drainage system to public sewers; and

- (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG.

9. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Wai Tau Tsuen is 28 while the 10-year Small House demand forecast for the same village is 262. Based on the latest estimate by the PlanD, about 2.91 ha of land (equivalent to about 116 Small House sites) are available within the "V" zone of Wai Tau Tsuen. Therefore, the land available cannot fully meet the future Small House demand of 290 Small Houses (equivalent to about 7.25 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 Small House concerned 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 (TD)'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 Small House should be connected to the public sewer;
 - (ii) no actual construction of the proposed Small House until the public sewerage system is available for connection;
 - (iii) adequate land space within the Site should be reserved for connection of the proposed Small House to the public sewer;
 - (iv) written consent(s) should be obtained from the relevant lot owner(s) and/or LandsD for laying and maintaining sewage pipes across the adjacent lots; and
 - (v) the cost of sewer connection should be borne by the applicant;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no public drain maintained by DSD in the vicinity of the Site. The proposed Small House should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding of the Site. The proposed development is located on the unpaved ground, which will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. 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 be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (ii) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability and impact on the surrounding environment, and seek comments from other concerned parties/departments if necessary. The applicant

should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected; and

- (iii) should the applicant choose to connect his proposed sewerage system to DSD's network they shall furnish DSD with his connection proposal for agreement. After obtaining DSD's agreement, the applicant shall submit a duly completed Form HBP1 with a cross cheque covering the technical audit fee and a plan showing the details of the proposed drainage connection works to DSD for formal application for the required connection. Upon DSD's acceptance of the connection application, the applicant shall carry out the proposed connection works in accordance with DSD's standard drawings at the resources of the applicant. The connection pipe outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD. In addition, to ensure the sustainability of the public sewerage network, the applicant is required to demonstrate to the satisfaction of DSD in such manner that the runoff within the subject premise will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage connection works, and the applicant will be required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system;
- (e) to note the comments of the Chief Engineer/Consultant Management, Drainage Services Department (CE/CM, DSD) that the new public sewerage network constructed under Contract No. DC/2013/01 at Wai Tau Tsuen was completed. The newly completed public sewer is adjoining to the Site. The public sewerage system will be available for connection in late 2019;
- (f) to note the comments of the Director of Fire Services 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; 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.