

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 Small House
within/partly within “Recreation” Zone in the vicinity of the Application Site
in the Luk Keng and Wo Hang Area**

Rejected Applications

| Application No. | Uses/Development | Date of Consideration | Rejection Reasons |
|------------------------|---|------------------------------|--------------------------|
| A/NE-LK/76* | Proposed House (New Territories Exempted House - Small House) | 9.11.2012 | R1 - R3 |
| A/NE-LK/99 | Proposed House (New Territories Exempted House - Small House) | 23.10.2015 | R2, R4 & R6 |
| A/NE-LK/102* | Proposed House (New Territories Exempted House - Small House) | 6.11.2015 | R2, R4, R5 & R6 |

Remarks

*A/NE-LK/76 and A/NE-LK/102 are the same site

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the "Recreation" zone in that the zone was primarily for recreational developments for the use of the general public. It encouraged the development of active and/or passive recreation and tourism/eco-tourism.
- R2. Land was still available within the "Village Type Development" zone of Yim Tso Ha Village where land 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 proposed development likely involved site formation works and might cause potential adverse ecological impacts on the natural habitats including freshwater marsh, agricultural land and a stream. However, there was a lack of information in the subject application to address the potential ecological impacts. The applicant had failed to demonstrate that the proposed development would not have adverse ecological impact on the surrounding area.
- R4. The approval of the application would set an undesirable precedent for similar application in the area. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.
- R5. The applicant failed to demonstrate in the submission that the proposed development would not have adverse ecological impact on the surrounding area.

- R6. The proposed development was not in line with the planning intention of the "Recreation" zone in the Luk Keng and Wo Hang area which was primarily for recreational developments for the use of the general public and encouraged the development of active and/or passive recreation and tourism/eco-tourism. There was no strong planning justification in the submission for a departure from the planning intention.

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 within the village environs of Yim Tso Ha;
- (b) the applicant claimed himself to be the indigenous villager of Yim Tso Ha of Sha Tau Kok Heung. His eligibility for Small House grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy/Building Licence;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand for Yim Tso Ha Village are 11 and 120 respectively; and
- (e) the Small House application at the Site was made to his office on 26.4.2017;

2. Traffic

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

- (a) she has reservation on the application and advises that Small House 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; and
- (b) the 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;

4. Nature Conservation

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

- (a) the Site and the surrounding seems to be an abandoned agricultural land which have become a wetland of varying degree over the years. While loss of wetland is not

desirable from nature conservation point of view, we noted the Site falls within the “REC” zone which is not intended for conservation. She trusts that the Town Planning Board will take into account the need for wetland conservation and the planning intention of the area in considering the application; and

- (b) it is noted that there is no access route to the Site. The applicant should provide information on how the construction materials would be transported to the Site and whether additional area would be cleared as footpath/access to the Site.

5. **Landscape**

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

- (a) she has some reservations on the application from the landscape planning perspective;
- (b) based on the aerial photo of 2018, the Site and its surroundings are covered by grass/vegetation, situated in an area of rural landscape character comprises village houses in “Village Type Development” zone to the northeast, and densely vegetated woodland within the “SSSI” and “Conservation Area” zones to the further east of the Site;
- (c) despite no significant sensitive landscape resource is observed within the site, the proposed development, if approved, would set an undesirable precedent, and would encourage more similar development within the area. The cumulative impact of such approval would degrade the landscape quality of surrounding environment, alter the landscape character and cause irreversible impact on existing landscape resources of the “REC” zone. Furthermore, the Site stands alone in the middle of vegetated area inaccessible by road, the potential impact on existing landscape resources arising from associated construction and infrastructure for the proposed development could not be ascertained; and
- (d) it is noted that there is no major public frontage along the site boundary, should the TPB approve the subject application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

6. **Drainage**

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

- (a) he has no 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. EPD should be consulted regarding the sewage treatment/disposal facilities for the proposed development;

7. Fire Safety

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

- (c) he has no in-principle objection to the application; and
- (d) 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 applications referred by LandsD;

8. Water Supply

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

- (a) he has no specific comment on the application; and
- (b) 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 should 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;

9. Leisure and Cultural Services

Comments of the Director of Leisure and Cultural Services (DLCS):

she has no specific comment on the application from district operation point of view. No recreational facilities or roadside amenities areas under the jurisdiction of North District Leisure Services Office will be affected by the proposed project.

10. District Officer’s Comments

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

she has consulted the locals regarding the application. The Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Yim Tso Ha and Pok Tau Ha supported the application on the grounds that there are similar Small House applications under processing in the vicinity of the Site. The incumbent North District Council (NDC) member of subject constituency and the Chairman of Sha Tau Kok District Rural Committee had no comment on the application.

11. Demand and Supply of Small House Site

According to DLO/N, LandsD’s records, the total number of outstanding Small House applications of Yim Tso Ha village is 11 while the 10-year Small House demand forecast for the same village is 120. According to the latest estimate by PlanD, a total of about 0.84 ha (equivalent to 33 Small House sites) of land are available within the “V” zone of Yim Tso Ha for Small House development (**Plan A-2b**). There is insufficient land in the “V” zone of Yim Tso Ha Village to meet the future demand of Small Houses (i.e. about 3.3 ha which is equivalent to 131 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 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;
- (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 advice of DEP 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 ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person;
- (e) 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.