

**Relevant Revised Interim Criteria for Consideration of Application for
NTEH/Small House in the 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 s.16 Applications in the vicinity of the Site and within the “AGR” zone
on the Lam Tsuen Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-LT/379	Proposed House (New Territories Exempted House – Small House)	9.5.2008	A1-A5
A/NE-LT/380	Proposed House (New Territories Exempted House – Small House)	9.5.2008	A1-A5
A/NE-LT/391	Proposed House (New Territories Exempted House – Small House)	5.12.2008	A1-A4,A6,A7
A/NE-LT/414	Proposed House (New Territories Exempted House – Small House)	1.4.2011	A1-A4,A6
A/NE-LT/484	Proposed House (New Territories Exempted House – Small House)	25.10.2013	A2-A4,A8
A/NE-LT/575	Proposed House (New Territories Exempted House – Small House)	24.6.2016	A1-A4,A7
A/NE-LT/576	Proposed House (New Territories Exempted House – Small House)	24.6.2016	A1-A4,A7
A/NE-LT/577	Proposed House (New Territories Exempted House – Small House)	24.6.2016	A1-A4,A7
A/NE-LT/587	Proposed House (New Territories Exempted House – Small House)	28.10.2016	A1, A3, A4, A9

Approval Conditions

- A1. The submission and implementation of drainage facilities/proposal.
- A2. The submission and implementation of landscape proposal.
- A3. The connection of the foul water drainage system to the public sewers.
- A4. The provision of protective measures to ensure no siltation occurred or no pollution to the water gathering grounds.
- A5. An archaeological survey was required to be conducted prior to any construction works on site.
- A6. The provision of fire fighting access, water supplies and fire service installations.

- A7. The carrying out of an archaeological investigation/survey prior to any construction works on site and the implementation of the appropriate mitigation measures identified therein.
- A8. The provision of drainage facilities.
- A9. The existing footpath within the site should remain open for public access during and after construction of the proposed development, as proposed by the applicant.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejected Reasons
A/NE-LT/397	Proposed House (New Territories Exempted House - Small House)	24.7.2009	R1,R2
A/NE-LT/490	Proposed House (New Territories Exempted House - Small House)	13.12.2013	R1,R3,R4
A/NE-LT/492	Proposed House (New Territories Exempted House - Small House)	11.4.2014 (on review)	R1,R5
A/NE-LT/493	Proposed House (New Territories Exempted House - Small House)	21.3.2014	R1,R3,R4

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. The "AGR" zone was also intended to retain fallow arable land with good potential for rehabilitation, cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention.
- R2. The proposed development did not comply with the 'Interim Criteria for assessing planning application for New Territories Exempted House/Small House development' in that more than 50% of the footprint of the proposed Small House fell outside the village 'environs' ('VE') and the "Village Type Development" ("V") zone of She Shan Tsuen. It was also doubtful whether the proposed Small House could be connected to the planned sewerage system in the area.
- R3. 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 "V" zone and the 'VE' of She Shan Tsuen.
- R4. The proposed development was located within the Water Gathering Ground. The applicant failed to demonstrate that the proposed development can be connected to the planned sewerage system and would not create adverse impact on the water quality in the area.

- R5. The applicant failed to demonstrate that the proposed development would not cause adverse landscape impact on the surrounding areas.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) no objection to the application;
- (b) the applicant claimed himself as an indigenous villager (IV) of Sha Lo Tung Cheung Uk, Tai Po. However, his eligibility of Small House grant has yet to be ascertained;
- (c) 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>
She Shan	19	80

(*The figure of 10-year Small House demand was provided by the IIR of She Shan in 2015 and the implementation so obtained is not verified by LandsD)

- (d) the subject lot 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;
- (e) the Site is not covered by Modification of Tenancy or Building Licence;
- (f) should the planning approval be granted 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 thereto;
- (g) the Site falls within the village 'environs' ('VE') of She Shan; and
- (h) the proposed sewerage connection will be considered when the Small House application is due for processing. Taking into consideration that the Site falls within the Water Gathering Ground (WGG), the applicant may be advised to connect the sewerage system to the proposed Government sewer under Drainage Services Department's project – Lam Tsuen Valley Sewerage.

2. Traffic

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

- (a) in general, he has reservation on the application. Such type of development should be confined within the "Village Type Development" ("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;
- (b) notwithstanding the above, he considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds; and
- (c) the existing village access on and near the Site is not under Transport Department's management. It is suggested that the land status, management and maintenance responsibilities of the village access 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" zone, and is within WGG. There is a public sewerage at She Shan Tsuen and the Site is at about 53m away from the sewer manhole. Provided that the applicant can obtain consent from the adjacent lot owners for laying and maintaining sewer pipes, sewer connection is feasible and capacity is available. Therefore, he has no objection to the application on the conditions that:
 - the proposed Small House will be connected to the public sewer for sewage disposal;
 - written consents can be obtained from the adjacent lot owners for laying and maintaining sewage pipes;
 - adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer;
 - the cost of sewer connection will be borne by the applicant; and

- (b) while the public sewer has sufficient capacity to accommodate the Small House discharge, the sewerage connection proposal submitted by the applicant appears to have conflicts with existing DSD's facilities, and the applicant should review his sewerage connection proposal; and
- (c) the Site falls within the Consultation Zone of Tai Po Water Treatment Works and Tai Po Tau Water Treatment Works. He has no objection from chlorine risk point of view.

4. **Landscape**

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

- (a) has some reservations on the application from the landscape planning point of view;
- (b) the Site is situated in an area of rural landscape character comprising of natural woodland, active and fallow farmlands and village houses. Existing village houses are concentrated within "V" zone to its east and south. Although the proposed application is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) no existing tree is found within the Site. Adverse impact to landscape resources arising from the proposed development is not anticipated. However, approval of the application would set an undesirable precedent to similar developments encroaching onto the "AGR" zone. The cumulative effect of approving similar applications would result in changing of landscape character and causing adverse landscape impact to the area;
- (d) since the footprint of the proposed house covers most of the Site, there is inadequate space for landscaping within the Site. Should the application be approved, the standard condition for submission and implementation of landscape proposal is not recommended; and
- (e) the Site is located on an existing footpath. The applicant should seek comments from relevant administrative party for potential impact on the right-of-way.

5. **Drainage and Sewerage**

Comments of 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, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area;
- (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 surrounding of the Site. The Site is located on unpaved ground and will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also 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 actual site condition for DSD's comment/agreement. DSD would not assist on the drainage proposal. In the design, the applicant should consider the workability, the impact to 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) regarding the sewerage connection proposal submitted by the applicant, manholes FMH1052227 and FMH 1052226 are within the area of Lam Tsuen Valley Sewage Pumping Station No. 1 and the proposed sewerage alignment might have conflict with DSD's drainage facilities. The applicant should review the sewerage connection proposal;

Comments of Chief Engineer/Project Management, Drainage Services Department (CE/PM, DSD):

no comment on the application as there is no drainage or sewerage project that under the control of DSD in She Shan Tsuen.

6. **Agriculture**

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

the Site is vacant. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as footpath and water supply is available. The Site possesses potential for agricultural rehabilitation. As such the application is not supported from the 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 LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

8. Water Supply

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

- (a) no objection to the application;
- (b) the Site is located within the upper indirect gathering grounds and is more than 30m away from the nearest stream. The proposed Small House footprint is within the 'VE' of She Shan Tsuen;
- (c) DEP indicates that the Site is able to be connected to the public sewerage system in the area and the applicant shall connect the proposed Small House with public sewer for sewage disposal. He supports DEP's view by imposing the following conditions:
 - (i) the foul water drainage system of the proposed Small House can be connected to the public sewerage system in the area and the applicant shall connect the whole of the foul water drainage system to the public sewerage system;
 - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG;
 - (iii) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass, to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed Small House to the sewerage system via relevant private lot; and
- (d) for provision of water supply to the proposed 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. **Site of Archaeological Interest**

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

the Site falls within She Shan Tsuen Site of Archaeological Interest. In view of the location and scope of the proposed development, the Antiquities and Monuments Office has no objection to the application. Nevertheless, the applicant is advised to inform DLCS immediately in case of discovery of antiquities or supposed antiquities in the Site in course of excavation.

10. **Demand and Supply of Small House Site**

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for She Shan is 19 while the 10-year Small House demand forecast for the same village is 80. Based on the latest estimate by the Planning Department, about 1.6 ha (or equivalent to about 64 Small House sites) of land are available within the "V" zone. Therefore, the land available cannot fully meet the future Small House demand (about 2.48 ha or equivalent to about 99 Small Houses).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that there is no guarantee at this stage that the Small House application would be approved. If 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 also no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (b) to note the comments of the Commissioner for Transport (C for T) that the existing village access on and near the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access 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) written consents should be obtained from the adjacent lot owners for laying and maintaining sewage pipes;
 - (ii) adequate land space within the Site should be reserved for connection of the proposed Small House to the public sewer;
 - (iii) the cost of sewer connection should be borne by the applicant; and
 - (iv) the sewerage connection proposal appears to have conflicts with existing DSD's facilities, the applicant should review the proposal;
- (d) to note the comments of the Chief Town Planner /Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) that the Site locates on an existing footpath and the applicant should seek comments from relevant administrative party for potential impact on the right-of-way;
- (e) 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 surrounding of the Site. The Site is located on unpaved ground and will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also 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 actual site condition for DSD's comment/agreement. DSD would not assist on the drainage proposal. In the design, the applicant should consider the workability, the impact to 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) regarding the sewerage connection proposal submitted by the applicant, manholes FMH1052227 and FMH 1052226 are within the area of Lam Tsuen Valley Sewage Pumping Station No. 1 and the proposed sewerage alignment might have conflict with DSD's drainage facilities. The applicant should review the sewerage connection proposal;
- (f) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
- (i) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass, to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed Small House to the sewerage system via relevant private lot; and
 - (ii) for provision of water supply to the proposed 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;
- (g) 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;
- (h) to note the comments of the Director of Leisure and Cultural Services (DLCS) that the Site falls within She Shan Tsuen Site of Archaeological Interest, and the applicant should inform DLCS immediately in case of discovery of antiquities or supposed antiquities in the Site in the course of excavation; and
- (i) to note that the permission is only given to the development under the 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.