

**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<sup>^</sup>);

- (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.

<sup>^</sup>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 Application covering the Application Site  
on the Lam Tsuen Outline Zoning Plan**

**Approved Application**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-LT/470	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	24.5.2013 (Partially approved)	A1 – A4

**Approval Conditions**

- A1. The submission and implementation of drainage 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 pollution or siltation occurred to the water gathering grounds.

**Rejected Application**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-LT/470	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	24.5.2013 (Partially rejected)	R1, R2

**Rejection Reasons**

- R1. The proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories in that there was still sufficient land available within the “V” zone to fully meet the future Small House demand.
- R2. The applicant failed to demonstrate in the submission why there was no alternative land available within areas zoned “V” for the proposed development.

**Similar Applications within the same “Agriculture” zone  
on the Lam Tsuen Outline Zoning Plan**

**Rejected Applications**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-LT/376	Proposed House (New Territories Exempted House - Small House)	7.3.2008	R1, R2
A/NE-LT/377	Proposed House (New Territories Exempted House - Small House)	7.3.2008	R1, R2
A/NE-LT/502	Proposed House (New Territories Exempted House - Small House)	15.8.2014 (on review)	R3, R4
A/NE-LT/558	Proposed House (New Territories Exempted House - Small House)	8.1.2016	R1, R5, R7
A/NE-LT/559	Proposed House (New Territories Exempted House - Small House)	8.1.2016	R1, R6, R7
A/NE-LT/606	Proposed House (New Territories Exempted House - Small House)	28.4.2017	R1, R5, R7, R8
A/NE-LT/614	Proposed House (New Territories Exempted House - Small House)	27.10.2017	R1, R6, R7

**Rejection Reasons**

- R1. The application 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. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justifications had been provided in the 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 (NTEH)/Small House development in that the application site was entirely outside the “Village Type Development” (“V”) zone and the village environs of a recognised village. In addition, the proposed NTEH/Small House development fell within the upper indirect water gathering grounds (WGGs) and was not able to be connected to the planned sewerage system in the area. There was insufficient information in the submission to demonstrate that the proposed development located within the WGGs would not cause adverse impact on the water quality in the area.

- R3. The proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories in that there was still sufficient land available within the “V” zone to fully meet the future Small House demand.
- R4. The applicant failed to demonstrate in the submission why there was no alternative land available within areas zoned “V” for the proposed development.
- R5. The proposed development did not comply with the Interim Criteria for consideration of application for NTEH/Small House in the New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone and the proposed development would cause adverse landscape impact on the surrounding area.
- R6. The proposed development did not comply with the Interim Criteria for consideration of application for NTEH/Small House in the New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone and/or the applicant failed to demonstrate that the proposed development located within WGG would not cause adverse impact on the water quality of the area or would be able to be connected to the existing/ planned sewerage system and the proposed development would not have adverse landscape impact on the surrounding area.
- R7. Land was still available within the “V” zone of Sheung Pak Ngau Shek and Ha Pak Ngau Shek 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 more orderly development pattern, efficient use of land and provision of infrastructure and services.
- R8. The proposed development did not comply with the Interim Criteria in that the applicant fails to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the existing/planned sewerage system and would not cause adverse impact on the water quality in the area and that the proposed development would not have adverse geotechnical impact on the surrounding area.

**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 claimed himself as an indigenous villager of Shui Wo. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the applicant is the registered owner of the subject lot and the Small House application was submitted to LandsD in 2011 which is still under processing;
- (d) the Site is an Old Schedule Lot held under Block Government Lease (demised for agriculture use) and is not covered by any Modification of Tenancy or Building Licence;
- (e) the Site falls outside the village ‘environs’ (‘VE’) of Pak Ngau Shek Ha Tsuen with its footprint falls partly (61.8%) 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 Pak Ngau Shek are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Pak Ngau Shek	26	100

(\*The figure of 10-year Small House Demand is estimated and provided by the Indigenous Inhabitant Representative (IIR) of Pak Ngau Shek Ha Tsuen in 2013 and the information so obtained is not verified in any way by DLO/TP, LandsD); and

- (g) if and after approval has been granted by TPB, 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 of 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.

**2. Traffic**

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

- no in-principle objection to the application from traffic engineering point of view.

### **3. 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 point of view;
- (b) the Site is situated in an area of rural landscape character comprising scattered tree groups, village houses and abandoned farmland. The application is not incompatible with the surrounding environment;
- (c) the Site is vacant and covered with grasses and groundcovers. No existing tree is found within the Site. Significant adverse impact on landscape resources from the proposed development is not anticipated; and
- (d) since the footprint of proposed development covers most of the Site, there is inadequate space for meaningful landscape to benefit public realm. Should the Board approve the application, it is considered unnecessary to impose any condition for submission and implementation of landscaping proposal.

### **4. Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls partly within the “Agriculture” (“AGR”) zone and partly within the “Village Type Development” (“V”) zone, and is within the water gathering grounds (WGG). There is existing public sewer at Pak Ngau Shek Ha Tsuen which has available capacity;
- (b) he has 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 would be reserved for connection of the proposed Small House to the public sewer;
  - (iii) written consent(s) obtained from the adjacent lot owner(s) and/or LandsD for laying and maintaining sewage pipes; and
  - (iv) the cost of sewer connection will be borne by the applicant; and
- (c) there is a watercourse about 35m away from the proposed development, the applicant is advised to follow ProPECC PN 1/94 Construction Site Drainage to properly handle and dispose of site discharge during construction phase.

### **5. Water Supply**

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

- (a) no objection to the application;

- (b) the Site is located within upper indirect WGG and is more than 30m away from the nearest water course; and
- (c) he notes that DEP has no objection to the application provided that the applicant shall connect the proposed Small House to the 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; and
  - (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.

## **6. Drainage and Sewerage**

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

- (a) no in-principle objection to the planning application from public drainage viewpoint;
- (b) if the application is approved, a 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 area;
- (c) there is no public drain maintained by DSD in the vicinity of the Site. The proposed development 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 the Site. The applicant should note that the proposed development is located on the unpaved ground. The proposed development 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/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 proposed development is located within an area where connections to existing sewerage networks are available in the vicinity;
- (e) 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, 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;

- (f) should the applicant choose to connect his proposed sewerage system to DSD's network, the applicant 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 this Division 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 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/owner 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 network 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; and
- (g) the applicant is required to rectify/modify the existing drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system.

## 7. **Agriculture**

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

- the Site is overgrown with grass. There are active agricultural activities in the vicinity and agricultural infrastructure such as footpath and water source is available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

## 8. **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.

**9. Gas Safety**

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

- (a) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Site;
- (b) the applicant/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
- (c) the applicant/consultant/works contractor is required to observe Electrical and Mechanical Services Department's requirements on the "Avoidance on Damage to Gas Pipes 2<sup>nd</sup> Edition" for reference.

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

According to DLO/TP, LandsD's record, the total number of outstanding Small House applications for Sheung Pak Ngau Shek is 26 while the 10-year Small House demand forecast for the same village is 100. Based on the latest estimate by Planning Department, about 3.01 ha of land (equivalent to about 120 Small House sites) are available within the "V" zone. Therefore, the land available cannot fully meet the future Small House demand of 126 Small Houses (equivalent to about 3.15 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 of 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;
- (b) 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) 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 adjacent lot owner(s) and/or Lands Department for laying and maintaining sewage pipes; and
  - (iv) the cost of sewer connection should be borne by the applicant; and
  - (v) as there is a watercourse about 35m away from the proposed development, the applicant should follow ProPECC PN 1/94 Construction Site Drainage to properly handle and dispose of site discharge during construction phase;
- (c) 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 development 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 the Site. The applicant should note that the proposed development is located on the unpaved ground. The proposed development 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/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 proposed development is located within an area where connections to existing sewerage networks are available in the vicinity;
  - (iii) 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, 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;

- (iv) should the applicant choose to connect his proposed sewerage system to DSD's network, the applicant 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 this Division 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 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/owner 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 network 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; and
- (v) the applicant is required to rectify/modify the existing drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that 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;
- (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 LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (f) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that:
  - (i) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Site;
  - (ii) the applicant/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
  - (iii) the applicant/consultant/works contractor is required to observe Electrical and Mechanical Services Department's requirements on the "Avoidance on Damage to Gas Pipes 2nd Edition" for reference.

- (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.