

**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 within the Same “AGR” Zone  
on the Lam Tsuen Outline Zoning Plan No. S/NE-LT/11**

**Approved Application**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-LT/358	House (New Territories Exempted House) (NTEH) (Small House)	28.04.2006	A1-A4, A6, A7
A/NE-LT/398	Proposed Three Houses (New Territories Exempted Houses - Small Houses)	04.09.2009	A1,A3, A4, A8, A9
A/NE-LT/410	Proposed House (New Territories Exempted House (NTEH) - Small House)	15.04.2011	A1, A3-A5, A8
A/NE-LT/486	Proposed 3 Houses (New Territories Exempted Houses - Small Houses)	08.11.2013	A1,A3, A4, A9
A/NE-LT/600	Proposed House (New Territories Exempted House - Small House)	07.07.2017 (Review)	A3-A5
A/NE-LT/601	Proposed House (New Territories Exempted House - Small House)	07.07.2017 (Review)	A3-A5

**Approval Conditions**

- A1. The submission and implementation of landscaping proposal.
- A2. The submission and provision of drainage facilities.
- A3. The connection of the foul water drainage system to public sewers.
- A4. The provision of protective measures to ensure no siltation occurred or no pollution to the water gathering grounds.
- A5. The submission and implementation of drainage proposal
- A6. The provision of emergency vehicular access or incorporation of residential sprinkler system
- A7. The submission of a slope assessment and implementation of stabilization works
- A8. The provision of fire fighting access, water supplies and fire service installation
- A9. The provision of drainage facilities.

### **Rejected Applications**

<b>Application No.</b>	<b>Proposed Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-LT/423	Proposed House (New Territories Exempted House (NTEH) - Small House)	03.06.2011	R5, R6
A/NE-LT/558	New Territories Exempted House (Small House)	08.01.2016	R1, R2, R4
A/NE-LT/559	Proposed House (New Territories Exempted House - Small House)	08.01.2016	R2-R4

### **Rejection Reasons**

- R1. 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 land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone and the proposed development would cause adverse landscape impact on the surrounding area.
- R2. 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.
- R3. The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in 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 applicant failed to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the planned sewerage system and would not cause adverse impact on the water quality in the area.
- R4. 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.
- R5. The proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed Small House within the upper indirect Water Gathering Ground (WGG) might not be able to be connected to the planned public sewers in the area. The applicant failed to demonstrate that the proposed development located within the WGG would not cause adverse effect on the water quality in the area.
- R6. The proposed development would affect the existing trees on the application site. The applicant failed to demonstrate in the submission that the proposed development would not have adverse impact on the existing trees located within the site.

**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 (IV) of Shui Wo. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Small House application has been received by LandsD;
- (d) the Site is an Old Schedule Lot held under Block Government Lease (demised for agricultural use) and is not covered by any Modification of Tenancy or Building Licence;
- (e) the Site falls entirely within the village ‘environs’ (‘VE’) of Shui Wo;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand</u>
Shui Wo	17	NA*

(\*No record showing the figure of 10-year Small House Demand has been provided by the Indigenous Inhabitant Representatives (IIR) of Shui Wo.)

- (g) should the application be approved 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 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 right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (h) the proposed septic tank falls within the subject lot. Whether it is acceptable or not will be considered when the case is due for processing.

**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 “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, he considers that the application only involving development of a Small House can be tolerated on traffic grounds.

### 3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- the Site falls within “Agriculture” zone and is within water gathering grounds (WGG). There is existing public sewer at Shui Wo with sufficient capacity, and the nearest manhole is at about 24m away from the Site. However, the applicant proposed the use of septic tank/soakaway system. According to Hong Kong Planning Standards and Guidelines, “use of septic tank/soakaway systems should be avoided for development in WGG”. Therefore, he does not support the application unless with the following conditions:
  - (a) the proposed Small House will be connected to the public sewer for sewage disposal;
  - (b) adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer;
  - (c) written consent(s) can be obtained from the relevant lot owner(s) for laying and maintaining sewerage pipes across the adjacent lot(s); and
  - (d) 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) he has reservation on 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, abandoned farmlands and village houses concentrated within “V” zone. A natural water course, which is a tributary of Upper Lam Tsuen River, an Ecologically Important Stream, is recorded adjoining the northern site boundary. The entire “AGR” zone had remained intact, thus preserving the rural landscape character of the area. Besides, no similar village houses or other incompatible uses are found within the “AGR” zone;
- (c) the Site is covered with grasses and groundcovers. Eight existing trees including *Artocarpus heterophyllus* (菠蘿蜜), *Bischofia javanica* (秋楓), *Celtis sinensis* (朴), *Citrus maxima* (柚), *Cleistocalyx nervosum* (水翁), *Dimocarpus longan* (龍眼) in good condition are recorded within site boundary. The proposed footprint of the Small House is likely in conflict with

some existing trees and there is no information on tree preservation proposal;

- (d) noting that the Site is sunken from the nearest access path, the proposed development may involve site formation and/or slope works. With no related information such as formation level or extent of slope works, adverse impact arising from site formation and/or slope works to existing trees cannot be ascertained. In addition, the proposed development, if approved, would encourage similar piecemeal Small House applications within the “AGR” zone. The cumulative effect of extending village development outside “V” zone would cause significant adverse impact on the landscape character of the area; and
- (e) in view of that the Site is adjacent to a natural river course which is a tributary of an Ecologically Important Stream, should the application be approved by the Board, approval condition on the submission and implementation of landscape proposal to establish an effective landscape buffer in between is recommended.

## **5. Drainage and Sewerage**

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

- (a) flooding in the vicinity has been recorded based on his records. It is revealed that the area adjoining the Site is subject to overland flows and/or regular flooding; and
- (b) does not support the application unless the applicant can submit satisfactory drainage proposal to mitigate the flooding susceptibility of the area to his satisfaction.

## **6. Agriculture**

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

- (a) the Site is overgrown with grass and weeds. Nevertheless, 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;
- (b) the Site is in close proximity to a natural stream which drains into the Lam Tsuen River (Upper) Ecologically Important Stream (EIS). The proposed Small House may result in adverse impact on the natural stream and the EIS; and
- (c) should the application be approved, the applicant should be advised to implement necessary precautionary measures making reference to Buildings Department Practice Notes for Authorized Persons and Registered Structural Engineers No. ADV-27 to minimize impacts on the streams.

**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) he objects to the application; and
- (b) the Site is located within upper indirect water gathering grounds and is less than 30m away from the nearest water course. As the applicant proposed the use of septic tank/soakaway system as sewage disposal method, the planning application could not meet the assessment criteria Item B(i) of the "Interim Criteria for Consideration of Application for NTEH/Small House in New Territories".

**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 Shui Wo is 17 while there is no record on 10-year Small House demand forecast for the same village provided by the IIR . Based on the latest estimate by the Planning Department, about 1.36 ha of land (equivalent to about 54 Small House sites) are available within the "V" zone of concerned village. Therefore, the land available can fully meet the future demand of 17 Small Houses (equivalent to 0.43 ha of land).



**Recommended Advisory Clauses**

- (a) to note the comments of the District Lands Office/Tai Po, Lands Department (DLO/TP, LandsD) that:
  - (i) 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 no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto; and
  - (ii) the proposed septic tank falls within the subject lot. Whether it is acceptable or not will be considered when the case is due for processing. Please also seek comment from Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Water Supplies (DWS) in relation to the proposed septic tank;
  
- (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 for sewage disposal;
  - (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) can be obtained from the relevant lot owner(s) for laying and maintaining sewage pipes across the adjacent lot(s); and
  - (iv) the cost of sewer connection should be borne by the applicant;
  
- (c) to note the comments of the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) that:
  - (i) the proposed Small House is located within an area where connections to existing sewerage networks are available in the vicinity;
  - (ii) 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 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 should maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner should also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
  - (iii) the applicant should design the drainage proposal based on 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, he shall submit his connection proposal for DSD's agreement. After obtaining DSD's agreement, the applicant should 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 should 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 should 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 should 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/owner should submit details of the proposed sewage connection works and concurrently provide further information on the runoff collection and discharge system; and
- (v) the applicant should rectify/modify the drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant should also be liable for and should 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 NTEH/Small House to the planned sewerage system via relevant private lot;
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that:
  - (i) the Site is in close proximity to a natural stream which drains into the Lam Tsuen River (Upper) Ecologically Important Stream (EIS); and
  - (ii) the applicant should be advised to implement necessary precautionary measures making reference to Buildings Department Practice Notes for Authorized Persons and Registered Structural Engineers No. ADV-27 to minimize impacts on the streams;
- (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

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.