

**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 Applications for
Proposed House (New Territories Exempted House - Small House)
at the Application Site**

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejected Reasons
A/NE-LT/623	Proposed House (New Territories Exempted House- Small House)	8.6.2018 (Review)	R1-R3
A/NE-LT/666	Proposed House (New Territories Exempted House- Small House)	31.5.2019	R1, R3

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 Consideration of Application for New Territories Exempted House/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 “Village Type Development” (“V”) zone of Sheung Tin Liu Ha, Ha Tin Liu Ha and Ko Tin Hom.
- R3 Land was still available within the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom 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.

**Similar s.16 Applications in the Vicinity of the Site and within the Same “AGR” zone
on the Lam Tsuen Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-LT/344	Proposed House (New Territories Exempted House - Small House)	25.11.2005	A1-A4
A/NE-LT/345	Proposed House (New Territories Exempted House - Small House)	25.11.2005	A1-A4
A/NE-LT/346	Proposed House (New Territories Exempted House - Small House)	17.3.2006	A1,A2,A4,A5
A/NE-LT/489	Proposed House (New Territories Exempted House - Small House)	13.12.2013	A1,A3,A4,A6
A/NE-LT/635	Proposed House (New Territories Exempted House - Small House)	18.5.2018	A1-A4

Approval Conditions

- A1. The submission and implementation of landscaping proposals.
- 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 design, construction and maintenance of the sewerage facilities and the future connection of the sewerage system to public sewers.
- A6. The provision of drainage facilities.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-LT/413	Proposed House (New Territories Exempted House - Small House)	9.9.2011 (Review)	R1 - R3
A/NE-LT/570	Proposed House (New Territories Exempted House - Small House)	27.5.2016	R3 - R5
A/NE-LT/571	Proposed House (New Territories Exempted House - Small House)	24.6.2016	R1, R3, R5
A/NE-LT/578	Proposed House (New Territories Exempted House - Small House)	24.6.2016	R3, R5, R6
A/NE-LT/618	Proposed House (New Territories Exempted House - Small House)	2.2.2018 (Review)	R1, R3, R5
A/NE-LT/640	Proposed House (New Territories Exempted House - Small House)	17.8.2018	R3, R5

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 of Sheung Tin Liu Ha, Ha Tin Liu Ha and Ko Tin Hom.
- R2. Small Houses should be developed within the “V” zone so as to concentrate village type development for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- R3. 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.
- R4. 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 of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom 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.
- R5. Land was still available within the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom 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.

- R6 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 is no general shortage of land in meeting the demand for Small House development in the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom. The proposed development would cause adverse landscape impact on the surrounding area 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 adversely affect the water quality in the 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 is an indigenous villager of Tin Liu Ha 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 an Old Schedule Lot held under Block Government Lease (demised for agricultural use). The applicant is the registered owner of the subject lot and the Small House application submitted by the applicant has been received by LandsD;
- (d) the Site falls within the village ‘environs’ (‘VE’) of Sheung Tin Liu Ha and is not covered by any Modification of Tenancy or Building Licence;
- (e) 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>
Tin Liu Ha (including Sheung Tin Liu Ha and Ha Tin Liu Ha)	9	130*
Ko Tin Hom	1	-

(*The figure of 10-year Small House demand was provided by the IIR of Tin Liu Ha in 2015 and the information so obtained is not verified by LandsD.)

- (f) 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 a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto; and
- (g) the proposed sewerage connection proposal will be considered when the case is due for processing. The applicant may be advised to connect the sewerage system to the existing Government sewers under Drainage Services Department (DSD)’s project.

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 “AGR” zone and is within WGG. The applicant proposed to connect the proposed Small House to the public sewerage at Tin Liu Ha Village. Sewer connection is feasible and capacity is available. He has no objection to the application on the conditions that:

- (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; and
- (c) 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 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 proposed development is considered not incompatible with the surrounding environment;
- (c) the Site is paved and no existing tree is found within the Site. Significant adverse impact on landscape resources from the proposed development is not anticipated; and
- (d) there is inadequate space for meaningful landscape to benefit public realm. Should the application be approved by the Board, it is considered unnecessary to impose any condition for submission and implementation of landscaping proposal.

5. **Drainage and Sewerage**

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) the proposed Small House is located within an area where connections to existing sewerage networks are available in the vicinity. There is no stud pipe reserved for the proposed Small House;
- (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 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. 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;
- (e) 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 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 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/owner will be required to submit details of the proposed sewage connection works and concurrently provide further information on the runoff collection and discharge system; and

- (f) the applicant is required to rectify/modify the 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.

6. Agriculture

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

he does not support the application from the agricultural development point of view as there are active agricultural activities in the vicinity, agricultural infrastructure such as road access and water source is available, and the Site possesses potential for agricultural rehabilitation.

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) 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. The proposed Small House footprint is entirely within the 'VE' of Sheung Tin Liu Ha. According to DEP, the Site is able to be connected to the public sewerage system in the area. Thus, compliance of the application with B(i) of the 'Interim Criteria for Consideration of Applications for NTEH/Small House in New Territories' can be reasonably established;
- (c) it is noted that DEP requires that the proposed Small House shall be connected to the sewerage system 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 NTEH/Small House to the planned sewerage system via relevant private lot;
- (d) existing water mains are inside the Site and will be affected (**Plan A-2a**). The applicant is required to either divert or protect the water mains found on Site. If diversion is required, existing water mains inside the Site are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence. If diversion is not required, the following conditions shall apply:
 - (i) existing water mains are affected as indicated on **Plan A-2a** and no development which requires resiting of water mains will be allowed;
 - (ii) details of site formation works shall be submitted to the Director of Water Supplies (DSW) for approval prior to commencement of works;
 - (iii) no structures shall be built or materials stored within 1.5m from the centre line(s) of water main(s) shown on **Plan A-2a**. Free access shall be made available at all times for staff of DSW or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (iv) no trees or shrubs with penetrating roots may be planted in the vicinity of the water main(s) shown on **Plan A-2a**. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of DSW. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
 - (v) no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and
 - (vi) tree planting may be prohibited in the event that DSW considers that there is any likelihood of damage being caused to water mains.

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 Tin Liu Ha and Ko Tin Hom is 10 while the 10-year Small House demand forecast for the same villages is 130. Based on the latest estimate by the Planning Department, about 3.24 ha of land (equivalent to about 129 Small House sites) are available within the "V" zone of concerned villages. Therefore, the land

available cannot fully meet the future demand of 140 Small Houses (equivalent to 3.5 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 sewerage connection proposal will be considered when the case is due for processing. The applicant may be advised to connect the sewerage system to the existing government sewers under Drainage Services Department (DSD)'s project;
- (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; and
 - (iii) 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. There is no stud pipe reserved for the proposed Small House;
 - (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. Also, existing water mains are inside the Site and will be affected (**Plan A-2a**). The applicant is required to either divert or protect the water mains found on Site. If diversion is required, existing water mains inside the Site are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence. If diversion is not required, the following conditions shall apply:
- (i) existing water mains are affected as indicated on **Plan A-2a** and no development which requires resiting of water mains will be allowed;
 - (ii) details of site formation works shall be submitted to the Director of Water Supplies (DSW) for approval prior to commencement of works;
 - (iii) no structures shall be built or materials stored within 1.5m from the centre line(s) of water main(s) shown on **Plan A-2a**. Free access shall be made available at all times for staff of DSW or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (iv) no trees or shrubs with penetrating roots may be planted in the vicinity of the

water main(s) shown on **Plan A-2a**. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of DSW. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;

- (v) no planning or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and
 - (vi) tree planting may be prohibited in the event that DSW considers that there is any likelihood of damage being caused to water mains;
- (e) 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
- (f) 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.