

**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 Application

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-LT/667	Proposed House (New Territories Exempted House - Small House)	6.9.2019	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. It was also intended to retain fallow arable land with good potential for rehabilitation for 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 New Territories (Interim Criteria) in that more than 50% of the footprint of the proposed Small House fell outside the “Village Type Development” (“V”) zone and the village ‘environs’ (‘VE’) of She Shan Tsuen
- R3. Land was still available within the “V” zone of She Shan Tsuen 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 “AGR” zone
on the Lam Tsuen Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-LT/316	New Territories Exempted House (NTEH) (Small House)	5.11.2004	A1, A2, A6, A7
A/NE-LT/317	New Territories Exempted House (NTEH) (Small House)	5.11.2004	A1, A2, A6, A7
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/419	Proposed House (New Territories Exempted House (NTEH) - Small House)	7.10.2011	A1, A3, A4, A6
A/NE-LT/484	Proposed House (New Territories Exempted House – Small House)	25.10.2013	A2-A4,A8
A/NE-LT/548	Proposed House (New Territories Exempted House - Small House)	23.10.2015	A1-A4

A/NE-LT/549	Proposed House (New Territories Exempted House - Small House)	23.10.2015	A1-A4
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	Rejection 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
A/NE-LT/636	Proposed House (New Territories Exempted House - Small House)	3.8.2018	R1, R6, R7

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 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 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.
- R6. The application did not comply with the 'Interim Criteria for assessing planning application for New Territories Exempted House/Small House development' in that the proposed development would cause adverse landscape impact on the surrounding areas.
- R7. Land was still available within the "V" zone of She Shan Tsuen 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.

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) there is no Small House application received at the Site, hence the applicant's eligibility of Small House grant could not be verified;
- (c) majority of the Site falls outside the village 'environs' ('VE') of She Shan;
- (d) the Site is an Old Schedule Lot under Block Government Lease demised for agricultural use; 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 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	20	50

(*The figure of 10-year Small House demand is estimated and provided by the Indigenous Inhabitant Representative of She Shan Tsuen and the information so obtained is not verified in any way by DLO/TP, LandsD)

- (f) given Small House application is received and approval is granted by the Town Planning Board (the Board), LandsD will process the Small House application. 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 any Emergency Vehicular Access thereto;
- (g) the proposed sewerage connection will be considered when the application is due for processing. Taking into consideration that the Site falls within the Water Gathering Grounds (WGG), the applicant may be advised to connect the sewerage system to the existing government sewers under Drainage Services Department's project; and
- (h) according to LandsD's record, the applicant is the owner of Lots 882 S.A and 882 RP in D.D. 19.

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. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within “Agriculture” (“AGR”) and “Village Type Development” (“V”) zones and is within the WGG. The applicant proposes to connect the proposed Small House to the existing public sewer at She Shan Village, which has sufficient 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 will be reserved for connection of the proposed Small House to the public sewer;
 - (iii) written consent(s) from the adjacent lot owner(s) and/or LandsD’s permission will be obtained for laying and maintaining sewage pipes; and
 - (iv) the cost of sewer connection will be borne by the applicant;
- (c) the Site falls within Consultation Zone of Tai Po and Tai Po Tau Water Treatment Works. Based on the information provided, he has no objection to the application from chlorine risk point of view; and
- (d) as the Site is in close proximity to She Shan River, the applicant is advised to follow *ProPECC PN 1/94 Construction Site Drainage* to properly handle and dispose of site discharge during construction phase.

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 uplands and hillsides landscape character comprises village houses and vegetated areas;
- (c) the Site is hard paved with no existing tree. Significant adverse impact on existing landscape resources due to the proposed development is not anticipated; and

- (d) there are four planning applications (No. A/NE-LT/414, 575, 576 and 577) located within the same “AGR” and “V” zones for the same use which were approved by the Board between 2011 and 2016. The proposed Small House is considered not entirely incompatible with the landscape character of its surrounding environment.

5. Drainage and Sewerage

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

- (a) does not support the application from public drainage viewpoint;
- (b) the proposed Small House is located too close to an existing stream course with its footprint less than 3m from the engineering channel, which might be eroded and flooded; and
- (c) there might be flooding susceptibility of the adjoining areas affected by the proposed Small House.

6. Agriculture

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

- although the Site is paved, there are active agricultural activities in the vicinity and agricultural infrastructure such as water source and road access are available. As the Site possesses potential for agricultural rehabilitation, the application is not supported from 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 advised 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 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 less than 30m away from the nearest watercourse;

- (c) he notes that DEP has no objection to the application provided that the applicant shall connect the proposed Small House to public sewer for sewage disposal. He supports DEP's view by imposing the following conditions/requirements:
- (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;
 - (iv) since the proposed Small House itself is less than 30m from the nearest watercourse, it should be located as far away from the watercourse as possible; and
 - (v) the whole of foul effluent shall be conveyed through cast iron pipes or other approved material with sealed joints and hatchboxes; 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. Electricity Supply

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

- (a) no comment on the application from electricity supply safety aspect; and
- (b) in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the 'Code of Practice on Working near Electricity Supply Line' established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

10. Site of Archaeological Interest

Comments of the Executive Secretary of Antiquities and Monuments Office, Development Bureau (ES (AMO), DEVB):

- (a) the Site falls within the She Shan Tsuen Site of Archaeological Interest. In view of the location and scope of the proposed development, he has no objection to the application; and
- (b) the applicant is advised to inform AMO two weeks before the commencement of the construction works so as to facilitate their staff to conduct site monitoring.

11. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for She Shan is 20 while the 10-year Small House demand forecast for the same village is 50. Based on the latest estimate by the Planning Department, about 1.54 ha of land (equivalent to about 61 Small House sites) are available within the "V" zone of She Shan. Therefore, the land available cannot fully meet the future demand of 70 Small Houses (equivalent to about 1.75 ha of land).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
- (i) 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 any Emergency Vehicular Access thereto; and
 - (ii) the proposed sewerage connection will be considered when the application is due for processing. Taking into consideration that the Site falls within the Water Gathering Grounds (WGG), the applicant may be advised to connect the sewerage system to the existing government sewers under 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;
 - (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) from the adjacent lot owner(s) and/or LandsD's permission should be obtained for laying and maintaining sewage pipes;
 - (iv) the cost of sewer connection should be borne by the applicant; and
 - (v) as the Site is in close proximity to She Shan River, 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 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;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that the applicant should 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 Electrical and Mechanical Services (DEMS) that in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in vicinity of the Site. The applicant is reminded to observe the Electricity Supply Lines (Protection) Regulation and the 'Code of Practice on Working near Electricity Supply Lines' established under the Regulation when carrying out works in the vicinity of the electricity supply lines;
- (f) to note the comments of the Executive Secretary of Antiquities and Monument Office (AMO) Development Bureau (ES (AMO), DEVB) that the Site falls within the She Shan Tsuen Site of Archaeological Interest. The applicant should inform AMO two weeks before the commencement of the construction works so as to facilitate their staff to conduct site monitoring; and
- (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.