

**Relevant 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) if an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be

mitigated to the satisfaction of relevant Government departments;

- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development^{*});
- (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
- (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.

^{*}i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Similar S.16 Applications for Proposed House (New Territories Exempted House - Small House)
within/partly within the “Agriculture” zone in the vicinity of the Site
in the Lung Yeuk Tau and Kwan Tei South Area**

Approved Applications

<u>Application No.</u>	<u>Uses/ Development</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
A/NE-LYT/288	New Territories Exempted House (NTEH) (Small House)	5.11.2004	A1, A2 & A3
A/NE-LYT/390	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	13.3.2009	A2, A3, A4 & A5
A/NE-LYT/499	Proposed 3 Houses (New Territories Exempted Houses - Small Houses)	1.3.2013	A2, A3 & A5
A/NE-LYT/510 ¹	Proposed House (New Territories Exempted House - Small House)	5.7.2013	A2, A3 & A5
A/NE-LYT/517	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	11.10.2013	A2, A3 & A5
A/NE-LYT/527	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	13.6.2014	A2, A3, A5 & A6
A/NE-LYT/553	Proposed House (New Territories Exempted House - Small House)	12.12.2014	A3, A5, A6 & A7
A/NE-LYT/562	Proposed House (New Territories Exempted House - Small House)	22.5.2015	A2, A3, A5 & A6
A/NE-LYT/563	Proposed House (New Territories Exempted House - Small House)	22.5.2015	A2, A3, A5 & A6
A/NE-LYT/564	Proposed House (New Territories Exempted House - Small House)	22.5.2015	A2, A3, A5 & A6
A/NE-LYT/565	Proposed House (New Territories Exempted House - Small House)	22.5.2015	A2, A3, A5 & A6
A/NE-LYT/566	Proposed House (New Territories Exempted House - Small House)	22.5.2015	A2, A3, A5 & A6
A/NE-LYT/567	Proposed House (New Territories Exempted House - Small House)	22.5.2015	A2, A3, A5 & A6

A/NE-LYT/587 ²	Proposed House (New Territories Exempted House - Small House)	5.2.2016	A2, A3, A5 & A6
A/NE-LYT/588 ²	Proposed House (New Territories Exempted House - Small House)	5.2.2016	A2, A3, A5 & A6
A/NE-LYT/599	Proposed House (New Territories Exempted House - Small House)	26.8.2016	A2, A3, A5 & A6
A/NE-LYT/603	Proposed House (New Territories Exempted House - Small House)	3.2.2017	A2, A3, A5 & A6
A/NE-LYT/632 ¹	Proposed House (New Territories Exempted House - Small House)	8.9.2017	A3, A5 & A6

Remarks

- *¹: The application no. A/NE-LYT/510 involves the same site as the application no. A/NE-LYT/632
- *²: The site of application no. A/NE-LYT/587 and A/NE-LYT/588 involves part of the site of rejected application no. A/NE-LYT/400

Approval Conditions:

- A1 The provision of drainage facilities
- A2 The submission and implementation of landscaping proposals
- A3 Commencement clause
- A4 The design and provision of firefighting access, water supplies for fire fighting and fire service installations
- A5 The submission and implementation of drainage proposals
- A6 The provision of septic tanks
- A7 The submission and implementation of tree preservation and landscape proposals

Rejected Applications

<u>Application No.</u>	<u>Uses/ Development</u>	<u>Date of Consideration</u>	<u>Rejection Reasons</u>
A/NE-LYT/399	Proposed House (New Territories Exempted House - Small House)	4.9.2009	R1, R2 & R3
A/NE-LYT/400*	Proposed House (New Territories Exempted House - Small House)	4.9.2009	R1, R2 & R3
A/NE-LYT/511	Proposed 8 Houses (New Territories Exempted Houses - Small Houses)	19.7.2013	R2, R4 & R5

Remarks

*: The site of application no. A/NE-LYT/400 involves part of the site of approved application no. A/NE-LYT/587 and A/NE-LYT/588

Rejection Reasons:

- R1 The proposed developments did not comply with the Interim Criteria for assessing planning application for New Territories Exempted House/Small House development as the application sites fell outside the "Village Type Development" zone and 'village environs' of a recognized village. There were no exceptional circumstances to merit special consideration of the applications.
- R2 The use under application was not in line with the planning intention of the "Agriculture" zone for the area which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation. There was no strong justification in the submission for a departure from the planning intention.
- R3 The approval of the applications would set an undesirable precedent for other similar applications. The cumulative impacts of approving such applications would result in adverse traffic impact of the area.
- R4 The application did not comply with the Interim Criteria for assessing New Territories Exempted House (NTEH)/Small House as the footprints of the proposed Small Houses fell entirely outside the "Village Type Development" zone and the village 'environs' of Kwan Tei Village. There was no exceptional circumstance which warranted sympathetic consideration of the application.
- R5 Approval of the application which did not comply with the Interim Criteria for assessing NTEH/Small House would set an undesirable precedent for other similar applications in the "AGR" zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area and adverse traffic impact.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site falls partly within the 'VE' of Kwan Tei Village;
- (b) the applicant claimed himself as an indigenous villager of Tsz Tong Tsuen of Fanling Heung but his eligibility for Small House concessionary grant has yet to be ascertained;
- (c) the Site is not covered by any Modification of Tenancy/Building License;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand forecast (2017 – 2026) for Kwan Tei Village are 48 and 379 respectively. The 10-year Small House demand forecast was provided by the relevant Indigenous Inhabitant Representative without any supporting evidence and his office is not in a position to verify the forecast;
- (e) the Small House grant application in respect of the Site was received by his office on 25.3.2013 but the application was rejected in January 2016 as the applicant could not obtain a planning permission;
- (f) the proposed septic tank should be at least 15m away from the well if the well is not for drinking purposes. Otherwise, the proposed septic tank should be at least 30m away from the well; and
- (g) regarding the footpath within the Site (**Plan A-2a**) is affected by the proposed development, he has no comment on it as the footpath is on private land.

2. Traffic

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

- (a) she 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, the application only involves construction of one Small House. She considers that the application can be tolerated unless it is rejected on other grounds.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution; and
- (b) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person.

4. Landscape

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

- (a) she has no objection to the application from the landscape planning point of view;
- (b) the Site is located in an area of rural landscape character comprising of village houses, farmland, temporary structures, vegetated area and clustered tree groups. Similar uses/developments with approved planning permissions are found in the close proximity of the Site in area also zoned "Agriculture" and "Village Type Development". The proposed development is considered not entirely incompatible with the existing surrounding environment;
- (c) the Site is mainly covered with wild grass. No tree or other significant vegetation is found within the Site. As such, significant adverse landscape impact arising from the proposed development is not anticipated. Therefore, she has no objection to the application from the landscape planning perspective; and
- (d) Since clustered tree groups are found in the vicinity of the Site and there is no major public frontage along the site boundary, and the applicant has proposed to provide landscaping for the uncovered area of the Site, it is considered not necessary to impose a landscape condition in view of the limited space within the Site for meaningful landscaping, as its effect on enhancing the quality of public realm is not apparent. Should the Committee approve this application, the applicant should be advised to maintain all plantings within the Site at all times during the planning approval.

5. Drainage

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

- (a) he has no in-principle objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and

- (c) the Site is in an area where no public sewerage connection is available.

6. Nature Conservation and Agriculture

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

- (a) the Site is shrubby and only common species are found at the Site. A watercourse was found near the northern boundary of the Site. He has no strong view on the application from nature conservation point of view. Should the application be approved, the applicant should be reminded the need to perform good site practice so as not to pollute the watercourse nearby; and
- (b) his site investigation revealed that agricultural activities are active in the vicinity of the Site and agricultural and agricultural infrastructures such as footpath and water source are available. The application is not supported from agriculture point of view as the Site possesses potential for agricultural rehabilitation.

7. Fire Safety

Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application; and
- (b) the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

8. Water Supply

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

- (a) he has no objection to the application; and
- (b) for provision of water supply to the 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. District Officer's Comments

Comments of the District Officer (North), Home Affairs Department (DO(N),HAD):

- (a) he has consulted the locals regarding the application. All respondents, including the Chairman of Fanling District Rural Committee, and Indigenous Inhabitant Representative and the Resident Representative of Kwan Tei have no comment on the application; and
- (b) the footpath, which encroaches onto the Site, is neither constructed nor maintained by his office.

10. Demand and Supply of Small House Sites

According to DLO/N's records, the total number of outstanding Small House applications for Kwan Tei Village is 48 while the 10-year Small House demand forecast for the same village is 379. According to the latest estimate by PlanD, about 2.59 ha (equivalent to 103 Small House sites) of land are available within the "V" zone of Kwan Tei Village for Small House development. There is insufficient land in the "V" zone of Kwan Tei Village to meet the demand of land for Small House development (i.e. about 10.7 ha of land which is equivalent to 427 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of CE/C, WSD that for provision of water supply to the development, the applicant may need to extend the inside services to 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 should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (b) to note the comments of the CTP/UD&L, PlanD that the applicant should be advised to maintain all plantings within the Site at all times during the planning approval;
- (c) to note the comments of 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 CE/MN, DSD that the Site is in an area where no public sewerage connection is available;
- (e) to note the comments DAFC that a watercourse was found near the northern boundary of the Site, the applicant should perform good site practice so as not to pollute the watercourse;
- (f) to note the advice of DEP that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person; 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.