

**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.

Previous S.16 Applications

Approved Applications

Applications No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-LYT/562 to 567	Proposed Houses (New Territories Exempted Houses - Small Houses)	22.5.2015	A1 - A4

Approval Conditions:

- A1 The provision of septic tank
- A2 The submission and implementation of drainage proposals
- A3 The submission and implementation of landscape proposals
- A4 Commencement clause

**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 ³	Proposed House (New Territories Exempted House - Small House)	12.12.2014	A3, A5, A6 & A7
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
A/NE-LYT/682	Proposed House (New Territories Exempted House - Small House)	4.1.2019	A3, A5 & A6

A/NE-LYT/721 ³	Proposed House (New Territories Exempted House - Small House)	26.5.2020	A3, A5 & A6
A/NE-LYT/722	Proposed House (New Territories Exempted House - Small House)	26.5.2020	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
- *3: The application no. A/NE-LYT/553 involves the same site as the application no. A/NE-LYT/721

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	R4, R5 & R6

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 was not in line with the planning intention of "Agriculture" ("AGR") zone which was primarily for retaining and safeguarding 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 given in the submission for a departure from the planning intention.
- R5 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.
- R6 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) two Sites under applications No. A/NE-LYT/735 and 737 entirely fall within the 'VE' of Kwan Tei Village while the majority of Sites under Applications No. A/NE-LYT/732 to 734 and 736 fall within the 'VE' of the same village;
- (b) the applicants under applications No. A/NE-LYT/732 to 735 claimed themselves to be indigenous villagers of Sze Tau Leng Village, Wo Hop Shek Village, Kwan Tei Village and Hok Tau Village respectively while the applicants under applications No. A/NE-LYT/736 and 737 claimed themselves to be indigenous villagers of Fanling Wai Village. The applicants' eligibility for Small House grants have yet to be ascertained;
- (c) the lots are not covered by any Modification of Tenancy / Licence;
- (d) the number of outstanding Small House applications for Kwan Tei Village are 45 while the number of 10-year Small House demand forecast are 375. The 10-year Small House demand forecast was provided by the relevant Indigenous Inhabitant Representative in 2016 without any supporting evidence. There is no more update since then. His office is not in a position to verify the forecast; and
- (e) the six Small House applications were received by his office on 17.12.2012.

2. Traffic

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

- (a) she has reservation on the applications. Such type of developments should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of developments 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 applications involve construction of six Small Houses. She considers that the applications can be tolerated unless being rejected on other grounds.

3. Environment

Comments of the Director of Environmental Protection (DEP):

- (a) in view of the small scale of the proposed developments, the applications are 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 applications from the landscape planning point of view;
- (b) the Sites are situated in an area of rural inland plain landscape character comprising village houses, temporary structures and vegetated areas. Based on aerial photo of 2019, the Sites are abandoned agricultural land. Significant adverse landscape impact arising from the developments within the Sites is not anticipated. The Sites are at the interface between abandoned agricultural land to the west and built up area to the east. As there are many existing small houses in the close proximity to the Sites, the proposed developments are considered not entirely incompatible with the landscape character of the surrounding setting; and
- (c) it is noted that there is no major public frontage along the site boundary and the site area is relatively small to provide meaningful landscape treatment. Should the Board approve the applications, it is considered not necessary to impose landscape conditions as their effect on enhancing the quality of public realm is not apparent.

5. **Drainage**

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

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

the Sites are currently abandoned land. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Sites possess potential for agricultural rehabilitation, the applications are not supported from agricultural point of view.

7. Fire Safety

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

- (a) he has no in-principle objection to the applications; and
- (b) the applicants are 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 applications; and
- (b) for provision of water supply to the developments, the applicants may need to extend the inside services to the nearest suitable Government water mains for connection. The applicants 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):

he has consulted the locals regarding the applications. The Chairman of Fanling District Rural Committee and the Indigenous Inhabitant Representative of Fu Tei Pai Village have no comment on the applications. The incumbent North District Council Member objects to the applications mainly on the grounds of adverse traffic impact on the surrounding area and insufficient infrastructure in support of proposed development. The Resident Representative of Fu Tei Pai Village did not reply.

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 45 while the 10-year Small House demand forecast for the same village is 375. According to the latest estimate by PlanD, about 2.48 ha (equivalent to 99 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 10.5 ha of land which is equivalent to 420 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of CE/C, WSD that for provision of water supply to the developments, the applicants may need to extend the inside services to nearest suitable Government water mains for connection. The applicants 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 D of FS that the applicants 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;
- (c) to note the comments of CE/MN, DSD that there is existing sewerage network available but it does not cover the Sites. Should the applicants choose to connect the proposed sewerage systems to DSD's networks, they shall furnish his office with the connection proposal for agreement. After obtaining my agreement, the applicants shall submit a duly completed Form HBP1 and a plan showing the details of the proposed connection works to this Division for formal application for the required connection;
- (d) 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
- (e) to note that the permissions are only given to the developments under applications. If provision of an access road is required for the proposed developments, the applicants 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 permissions from the Town Planning Board where required before carrying out the road works.