

**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 (NTEH - Small House)
within/partly within the “Agriculture” zone in the vicinity of the Application Sites in the
Ping Che and Ta Kwu Ling Area**

Approved Applications

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/NE-TKL/180	Proposed New Territories Exempted House (NTEH) (Small House)	2.11.2001	A1, A2 & A13
A/NE-TKL/220	Proposed New Territories Exempted House (NTEH) (Small House)	25.10.2002	A1, A2 & A13
A/NE-TKL/240	Proposed New Territories Exempted House (NTEH) (Small House)	15.8.2003	A1, A3, A4 & A13
A/NE-TKL/269	Proposed House (New Territories Exempted House) (NTEH) (Small House)	15.4.2005	A1, A2, A5 & A13
A/NE-TKL/282	House (New Territories Exempted House) (NTEH) (Small House)	13.1.2006	A6, A7 & A13
A/NE-TKL/294	Proposed Houses (New Territories Exempted Houses (NTEHs) – Small Houses)	23.2.2007	A2, A8 & A13
A/NE-TKL/296	Proposed House (New Territories Exempted House (NTEH) – Small House)	27.4.2007	A2, A8, A9 & A13
A/NE-TKL/327	Proposed House (New Territories Exempted House - Small House)	6.11.2009	A2, A8, A10 & A13
A/NE-TKL/438	Proposed House (New Territories Exempted House - Small House)	2.8.2013	A2, A8 & A13
A/NE-TKL/440	Proposed House (New Territories Exempted House - Small House)	2.8.2013	A2, A8 & A13
A/NE-TKL/543	House (New Territories Exempted House - Small House)	14.10.2016	A2, A8, A11 & A13
A/NE-TKL/544	Proposed House (New Territories Exempted House - Small House)	14.10.2016	A2, A8, A11 & A13

A/NE-TKL/545	House (New Territories Exempted House - Small House)	14.10.2016	A2, A8, A11 & A13
A/NE-TKL/546	Proposed House (New Territories Exempted House - Small House)	14.10.2016	A2, A8, A11 & A13
A/NE-TKL/599	Proposed 6 Houses (New Territories Exempted Houses - Small Houses)	19.10.2018	A8, A11 & A13
A/NE-TKL/604	Proposed House (New Territories Exempted House - Small House)	7.12.2018	A2, A8, A12 & A13

Approval Conditions:

- A1 The provision of drainage facilities
- A2 The submission and implementation of landscaping proposals
- A3 The provision of fire services installations
- A4 The implementation of the approved landscaping proposals
- A5 The provision of emergency vehicular access and fire hydrants
- A6 The preservation of all existing trees and planting on site
- A7 The submission of drainage proposal and provision of drainage facilities
- A8 The submission and implementation of drainage proposal
- A9 The design and provision of firefighting access, water supplies and fire service installations
- A10 The provision of firefighting access, water supplies for firefighting and fire service installations
- A11 The connection of the foul water drainage system to the public sewers
- A12 The provision of septic tank
- A13 Commencement clause

Rejected Applications

Application No.	Uses/Development	Date of Consideration	Rejection Reasons
A/NE-TKL/183	Proposed New Territories Exempted House (NTEH) (Small House)	22.2.2002 (on review)	R1 - R3
A/NE-TKL/369	Proposed 3 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	2.9.2011	R4 - R6
A/NE-TKL/383	Proposed 2 Houses (New Territories Exempted Houses - Small Houses)	21.12.2012	R5, R7 & R8
A/NE-TKL/617	Proposed House (New Territories Exempted House - Small House)	5.7.2019	R5, R9 & R10

Reasons for Rejection:

- R1 A large portion of the application site (about 97%) fell within an area zoned “Agriculture” (“AGR”) with predominantly agricultural land. The proposed development was not in line with the planning intention of the “AGR” zone which was to retain and safeguard agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation. No strong justifications had been provided in the submission to merit a departure from the planning intention.
- R2 The proposed development did not comply with the interim criteria for assessing planning applications for New Territories Exempted House/Small House development in the New Territories in that only a small portion (about 3%) of the application site fell within the “Village Type Development” zone. Village development should be sited close to the village proper to ensure orderly development and provision of facilities.
- R3 The approval of the application would set an undesirable precedent for other similar applications.
- R4 The approval of the application would set an undesirable precedent for other similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment.
- R5 The proposed development was not in line with the planning intention of the “Agriculture” zone 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 for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention.

- R6 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 the footprint of each of the proposed Small Houses fell entirely outside the village ‘environs’ of a recognised village.
- R7 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 application site and the proposed houses were entirely outside both the village ‘environs’ and the “Village Type Development” zone of recognised villages.
- R8 The approval of the application would cause adverse landscape and drainage impacts on the surrounding areas.
- R9 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 more than 50% of the footprint of the proposed Small House fell outside the “Village Type Development” zone and the village ‘environs’ of Ping Yeung Village.
- R10 Land was still available within the “V” zone of Ping Yeung Village where land 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 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/North, Lands Department (DLO/N, LandsD):

- (a) the Site falls within the 'VE' of Ping Yeung Village;
- (b) the applicant has been certified by the Indigenous Inhabitants Representative in statutory declaration that the applicant is an indigenous villagers of Ping Yeung in Ta Kwu Ling Heung;
- (c) the Site is not covered by any Modification of Tenancy/Building Licence;
- (d) the subject Small House application was submitted to his office on 22 February 2013; and
- (e) the number of outstanding Small House applications and the number of 10-year Small House demand forecast (2017 to 2026) for Ping Yeung Village is 64 and 4,600 respectively.

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 "Village Type Development" ("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 cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the application involves the construction of one Small House. She considers that the subject application 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 alone are unlikely to cause major pollution;
- (b) the 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

- (c) the applicant should be required to take appropriate measures to prevent contaminated surface runoff from being discharged into streams during construction and operational stage of the projects, to comply with ProPECC PN 1/94 Construction Site Drainage and all environmental protection / pollution control ordinances.

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 perspective;
- (b) based on the aerial photo of 2018, the Site is situated in an area of rural landscape character surrounded by village houses and vegetated areas. No significant landscape resource of high sensitivity is observed within the Site;
- (c) in view of the above, significant adverse impact on existing landscape resources arising from this application is not anticipated. Moreover, existing village houses and some permitted small house developments are found in close proximity to the Site, the proposed development under this application is considered not entirely incompatible with the surrounding environment; and
- (d) it is noted that space within the Site is limited; there is insufficient space for meaningful landscaping. Should the Board approve the application, it is considered not necessary to impose a landscape condition as its 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 objection to the application from the 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;
- (c) the Site is in an area where no public sewerage connection is available;
- (d) the Site is in the vicinity of an existing streamcourse. The applicant shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction; and
- (e) the applicant should be reminded to minimize the possible adverse environmental impacts on the existing streamcourse in his design and during construction.

6. **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.

7. **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 his/her 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 shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD’s standards; and
- (c) the standard pedestal hydrant cannot be provided in the vicinity of the Site.

8. **Agriculture**

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

- (a) the Site is a currently a fallow land. Agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open field cultivation, greenhouses, etc. As the Site possess the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view; and
- (b) from nature conservation point of view, the Site is partly paved and covered by herbaceous plants of common species. Regarding the watercourses to the north and west of the Site, good site practice should be implemented in order not to pollute the watercourse nearby.

9. **District Officer’s Comments**

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

The Vice-Chairman of Ta Kwu Ling District Rural Committee, the incumbent North District Council (NDC), two of the four Indigenous Inhabitant Representatives (IIRs) and the Resident Representative (RR) of Ping Yeung had no comments on the proposal. The remaining two IIRs of Ping Yeung supported the application on the grounds that indigenous villager of Ping Yeung should have the right to build Small House at Ping Yeung.

10. **Demand and Supply of Small House Site**

According to DLO/N’s records, the total number of outstanding Small House applications for Ping Yeung Village is 64 while the 10-year Small House demand forecast for the same village is 4,600. According to the latest estimate by PlanD, about 5.36 ha (equivalent to about 214 Small House sites) of land are available within the “V” zone of Ping Yeung Village. There is insufficient land in the “V” zone of Ping Yeung Village to meet the future demand of Small Houses (i.e. about 116.65 ha of land which is equivalent to 4,664 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of CE/MN, DSD that:
 - (i) the Site is in an area where no public sewerage connection is available;
 - (ii) the Site is in the vicinity of an existing streamcourse. The applicant shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicant to his satisfaction; and
 - (iii) the applicant is reminded to minimize the possible adverse environmental impacts on the existing streamcourse in his design and during construction.
- (b) 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 the applicant is required to take appropriate measures to prevent contaminated surface runoff from being discharged into streams during construction and operational stage of the projects, to comply with ProPECC PN 1/94 Construction Site Drainage and all environmental protection / pollution control ordinances;
- (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/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 shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD’s standards; and
- (e) 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.