

**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 Application at the Application Site

Approved Application

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-TK/563	Proposed House (NTEH - Small House)	09/10/2015	R1- R4

- R1. The proposed development was not in line with the planning intention of the “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 for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention.
- R2. Approval of the application would set an undesirable precedent for similar applications at the subject “AGR” zone, resulting in village expansion to the south of Ting Kok Road, leading to disturbance to landscape resources in the surrounding area and degradation of the existing agricultural/recreational landscape character.
- R3. The proposed development did not comply with the Interim Criteria in that more than 50% of the footprint of the proposed Small House falls outside the “V” zone and the village ‘environs’ of Ting Kok Village and the proposed development would cause adverse landscape impact on the surrounding area.
- R4. Land was still available within the “V” zone of Ting Kok which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

**Similar Applications within the same “Agriculture” zone
on the Ting Kok Outline Zoning Plan**

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-TK/495	Proposed House (NTEH - Small House)	29.6.2016 (Appeal) #	R1 – R2
A/NE-TK/496	Proposed House (NTEH - Small House)	29.6.2016 (Appeal) #	R1 – R2

Appeal dismissed on 29.6.2016

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “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 for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention.
- R2. Approval of the application would set an undesirable precedent for similar applications at the subject “AGR” zone, resulting in village expansion to the south of Ting Kok Road, leading to disturbance to landscape resources in the surrounding area and degradation of the existing agricultural/recreational landscape character.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) he does not support the application;
- (b) the applicant, claimed himself as an indigenous villager (IV) of Ting Kok. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the application site (the Site) is held under Block Government Lease (demised for agricultural use). It is not covered by any Modification of Tenancy or Building Licence. His office has not received Small House application on the Site;
- (d) the number of outstanding Small House applications and the number of 10-year Small House demand for the concerned village are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Ting Kok	31	160

(* The figures are estimated and provided by the concerned IIR. The information so obtained has not been verified by his Office.)

- (e) given that the Site falls outside the village ‘environs’ boundary (VEB) of a recognized village and outside the “V” zone which encircles a recognized village, the Small House application, if received, will be rejected under the New Territories Small House Policy even though the applicant is an indigenous villager who is successful in seeking the necessary planning permission.

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 “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 development of a Small House and he considers that this application can be tolerated unless it is rejected on other grounds.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application provided that the design and operation of the proposed septic tank and soakaway system follows the requirements in Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department"; and
- (b) there is no existing or planned sewerage in the vicinity of the Site.

4. **Landscape**

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

- (a) has strong reservations on the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising of scattered tree groups, farmlands and a few village houses and is close to the coastal area of Ting Kok and the "Coastal Protection Area" ("CPA") zone. Although the proposed development is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) the Site is vacant and a number of *Musa sp.* (蕉) are found. Although there is no landscape resources within the Site, approval of the application would set an undesirable precedent and encourage similar Small House applications at the subject "AGR" zone, resulting in village expansion to the south of Ting Kok Road, leading to disturbance to landscape resources in the surrounding area and degradation of the existing agricultural landscape character along the coastal area of Ting Kok; and
- (d) in view of the scale and nature of the proposed development and there is not adequate space for meaningful landscaping within the Site to benefit the public realm, should the application be approved, no landscape related condition is required.

5. **Drainage**

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) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) there is no existing DSD maintained public drain available for connection in the area. The proposed development should have its own stormwater collection

and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (d) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought; and
- (e) public sewerage are not available near the Site. DEP should be consulted regarding the sewage treatment/disposal aspects of the proposed development.

6. Agriculture

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

- the Site is covered with grass and a few fruit trees. There are active agricultural activities in the vicinity and agricultural infrastructure such as footpath and water source is available. The Site possesses potential for agricultural rehabilitation. As such, 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 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) no objection to the application; and
- (b) 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 interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and "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.

10. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for Ting Kok is 31 while the 10-year Small House demand forecast for the same village is 160. Based on the latest estimate by the PlanD, about 2.41 ha of land (equivalent to about 96 Small House sites) are available within the "V" zone of Ting Kok. Therefore, the land available cannot fully meet the future Small House demand of 191 Small Houses (or equivalent to about 4.78 ha of land).

Recommended Advisory Clauses

- (a) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
- (i) there is no existing DSD maintained public drain available for connection in the area. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems; and
 - (ii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
- (b) to note the comments of the Director of Environmental Protection (DEP) that the design and operation of the proposed septic tank and soakaway system should follow the requirements in Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department";
- (c) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C,WSD) that 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;
- (d) 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;
- (e) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that the parties concerned with planning, designing, organizing and supervising any activity near the underground cable under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and "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; 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 Town Planning Board where required before carrying out the road works.