

**Relevant Revised Interim Criteria for Consideration of Application for
NTEH/Small House in the 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.

**Appendix III of RNTPC
Paper No. A/NE-LT/667A**

**Similar s.16 Applications in the vicinity of the Site and within the same “AGR” zone
on the Lam Tsuen Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
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/484	Proposed House (New Territories Exempted House – Small House)	25.10.2013	A2-A4,A8
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 Consideration of Application for New Territories Exempted House/Small House in the New Territories' 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 Consideration of Applications for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas.
- R7. Land was still available within the "Village Type Development" ("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) the application is not supported;
- (b) the applicant claimed himself as indigenous villager (IV) of She Shan, Tai Po. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the applicant is the registered owner of the Site. The Small House application has been received by his office;
- (d) the Site is an Old Schedule Lot held under Block Government Lease (demised for agricultural use) and it is not covered by any Modification of Tenancy or Building Licence;
- (e) given that the proposed house falls largely outside the village 'environs' ('VE') of She Shan Tsuen and more than 50% of it falls outside the "V" zone, the application will not be considered under the Small House Policy;
- (f) 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	21	80

(* The figure of 10-year Small House demand was estimated and provided by the Indigenous Inhabitant Representative (IIR) of She Shan in 2015. The information so obtained is not verified by DLO/TP);

- (g) the proposed septic tank falls within the subject lot. Whether it is acceptable or not will be considered when the case is due for processing; and
- (h) if and after planning approval has been granted by the Board, LandsD will process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. 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 right of way to the Small House concerned or approval of any Emergency Vehicular Access thereto.

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 “AGR” and “V” zones, and is within WGG. The applicant proposed to connect the Small House to the public sewer at She Shan Village. Sewer connection is feasible and capacity is available;
- (b) the Site falls within the 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;
- (c) 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 should be reserved for connection of the proposed house to the public sewer;
 - (iii) written consent(s) obtained from the adjacent lot owner(s) and/or LandsD’s permission for laying and maintaining sewage pipes; and
 - (iv) the cost of connection will be borne by the applicant; 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 landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising scattered tree groups and village houses. The application is considered not incompatible with the surrounding environment;

- (c) the Site is paved with asphalt and in operation as car park. No existing tree is found within site boundary. Adverse impact arising from the proposed development on landscape resources within the Site is not anticipated; and
- (d) in view that tree buffer is found along public frontage of the Site for screening purpose, should the Board approve the application, it is considered not necessary to impose any landscape condition.

5. Drainage and Sewerage

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

- (a) no in-principle objection to the application from public drainage point of view;
- (b) if the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) the proposed Small House is located within an area where connections to existing sewerage networks are available in the vicinity;
- (d) as no stud pipe is reserved for the proposed Small House, DEP's view should be sought whether the sewage to be generated from the proposed Small House can be adequately catered by the existing / planned public sewers located nearby. Should the applicant choose to dispose of sewage of the proposed development through other means, views and comments from DEP should be sought;
- (e) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. The proposed development is located on unpaved ground, and will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (f) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent

areas should not be adversely affected;

- (g) should the applicant choose to connect his proposed sewerage system to DSD's network, he shall furnish DSD with the connection proposal for agreement. After obtaining his agreement, the applicant shall submit a duly completed Form HBP1 with a cross cheque covering the technical audit fee and a plan showing the details of the proposed drainage connection works for formal application. Upon acceptance of the connection application, the applicant shall carry out the proposed connection works in accordance with DSD Standard Drawings at the resources of the applicant. The connection pipe outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD. In addition, to ensure the sustainability of the public sewerage network, the applicant/owner is required to demonstrate to the satisfaction of DSD in such manner that the runoff within the subject premise will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage network and the applicant/owner will be required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system; and
- (h) the applicant is required to rectify/modify the existing drainage/ sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system.

6. **Agriculture**

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

- the Site is paved. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as water source and road access 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 comment on the application; and
- (b) the applicant is advised to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department.

8. Water Supply

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

- (a) the Site is located within upper indirect WGG and is less than 30m away from the nearest water course; and
- (b) the proposed Small House footprint is less than 50% within "V" zone and less than 50% within the 'VE' of She Shan Tsuen. According to Item B(c) of the "Interim Criteria for Consideration of Application for NTEH/Small House in New Territories", the development of NTEH/Small House with such footprint would normally not be approved. Therefore, he objects to the application.

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 Lines' 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 (AMO):

- (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 required to notify AMO two weeks before the commencement of the construction works so as to facilitate them to conduct a site inspection.

11. Demand and Supply of Small House Sites

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for She Shen is 21 while the 10-year Small House demand forecast for the same village is 80. Based on the latest estimate by Planning Department, about 1.57 ha of land (or equivalent to about 62 Small House sites) are available within the "V" zone concerned. Therefore, the land available cannot fully meet the future demand of 101 Small Houses (or equivalent to about 2.53 ha of land).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that if 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 the Emergency Vehicular Access thereto;
- (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 for sewage disposal;
 - (ii) adequate land space within the Site should be reserved for connection of the proposed house to the public sewer;
 - (iii) written consent(s) should be obtained from the adjacent lot owner(s) and /or LandsD's permission for laying and maintaining sewage pipes;
 - (iv) the cost of 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 Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no public drain maintained by DSD in the vicinity of the Site. The proposed Small House should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding of the Site. The proposed development is located on unpaved ground and will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such system properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (ii) the applicant should design the drainage proposal based on actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. The applicant should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected;

- (iii) should the applicant choose to connect his proposed sewerage system to DSD's network, he shall furnish DSD with the connection proposal for agreement. After obtaining his agreement, the applicant shall submit a duly completed Form HBP1 with a cross cheque covering the technical audit fee and a plan showing the details of the proposed drainage connection works for formal application. Upon his acceptance of the connection application, the applicant shall carry out the proposed connection works in accordance with DSD Standard Drawings at the resources of the applicant. The connection pipe outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD. In addition, to ensure the sustainability of the public sewerage network, the applicant/owner is required to demonstrate to the satisfaction of DSD in such manner that the runoff within the subject premise will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage network and the applicant/owner will be required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system; and
- (iv) the applicant should rectify/modify the drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system;
- (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 the 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 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 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 Monuments Office (AMO) that the Site falls within the She Shan Tsuen Site of Archaeological Interest. The applicant is required to notify AMO two weeks before the commencement of the construction works so as to facilitate them to conduct a site inspection; 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.