

**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

Previous s. 16 Application at the Application Site

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/TP/623	Proposed House (NTEH - Small House)	07/04/2017	R1-R4

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the “Green Belt” (“GB”) zone for the area which is to define the limits of urban development areas by natural physical features so as to contain urban sprawl and to provide passive recreational outlets. There is a general presumption against development within this zone.
- R2. The proposed development did not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance in that the proposed development would involve clearance of natural vegetation affecting the existing natural landscape in the area. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas.
- 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 there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Pun Shan Chau and the proposed development would have adverse landscape impact on the surrounding areas.
- R4. Land was still available within the “V” zone of Pun Shan Chau village which is primarily intended for Small House development. It is 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.

**Similar s. 16 Applications for Proposed House
(New Territories Exempted House (NTEH) – Small House)
Within the same “Green Belt” Zone on the
Tai Po Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approved Conditions
A/TP/326	Proposed House (NTEH - Small House)	28/05/2004	A1, A2
A/TP/337	Proposed House (NTEH - Small House)	03/12/2004	A1, A2
A/TP/344	Proposed House (NTEH - Small House)	28/01/2005	A1, A2
A/TP/366	Proposed House (NTEH - Small House)	03/03/2006	A2-A5
A/TP/385	Proposed House (NTEH - Small House)	02/02/2007	A1, A2, A6
A/TP/419	Proposed House (NTEH - Small House)	13/03/2009	A1, A6
A/TP/437	Proposed House (NTEH - Small House)	23/10/2009	A1, A6, A7
A/TP/631	Proposed House (NTEH - Small House)	08/09/2017	A1, A8, A9

Approval Conditions

- A1. the submission and implementation of landscape proposals
- A2. the provision of drainage facilities
- A3. the submission of a slope assessment and the implementation of stabilization works
- A4. the submission and implementation of landscaping and tree preservation proposals
- A5. the submission of car parking layout
- A6. the provision of fire-fighting access, fire-fighting water supplies and fire service installations
- A7. the submission of a Natural Terrain Hazard Study and implementation of the mitigation measures recommended

affecting the existing natural landscape.

- R5. The approval of the application would set an undesirable precedent for similar developments within the "GB" zone. The cumulative impact of approving such applications would result in general degradation of the natural environment.
- R6. The proposed development did not comply with the 'Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories' in that the application site and the proposed house fell entirely outside both the village 'environs' and the "V " zone of a recognised village.
- R7. The proposed development is not in line with the planning intention of the "GB" zoning for the area which is to define the limits of urban development areas by natural physical features so as to contain urban sprawl and to provide passive recreational outlets. There is a general presumption against development within this zone.
- R8. The proposed development does not comply with the Town Planning Board Guidelines No. 10 for Application for Development within "GB" zone under section 16 of the Town Planning Ordinance in that the proposed development would involve clearance of natural vegetation affecting the existing natural landscape in the area. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas.
- R9. The proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "V" zone of Pun Shan Chau and the proposed development would have adverse landscape impact on the surrounding areas.
- R10. Land was still available within the "V" zone of Pun Shan Chau village which is primarily intended for Small House development. It is 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.
- R11. The proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that over 50% of the application site and the proposed house were located outside both the village 'environs' and the "Village Type Development" zone of a recognized village.
- R12. The application did not comply with the Town Planning Board Guidelines No. 10 for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed development will affect the existing natural landscape. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas.
- R13. The proposed development does not comply with the Interim Criteria for Consideration of Applications for New Territories Exempted House/Small House Development in New

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) no objection to the application;
- (b) the applicant is an indigenous villager of Ha Tei Ha Village as confirmed by the Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site entirely falls within the village 'environs' of Pun Shan Chau;
- (d) the number of outstanding Small House applications for Pun Shan Chau is 10. The IIR of the village concerned has not provided any figure of the 10-year Small House demand;
- (e) the Site is not covered by any Modification of Tenancy or building licence; and
- (f) if and after planning approval has been given by the Board, LandsD will process the Small House application. 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 a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto.

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 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;
- (b) notwithstanding the above, he considers that the application only involves a Small House development could be tolerated unless it is rejected on other grounds; and
- (c) the existing village access on and near the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

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 viewpoint;
- (b) there is no public drain maintained by DSD in the vicinity of the Site. 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 to ensure that the proposed house will not cause adverse drainage impact to the adjacent area. 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 applicant 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 shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (c) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner on his drainage proposal. 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. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
- (d) there is no existing public sewerage in the vicinity of the Site;
- (e) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
- (f) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owners should be sought;
- (g) the lot owner should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom; and
- (h) the limited desk-top checking by Government on the drainage proposal covers only the fundamental aspects of the drainage design which will by no means relieve the lot owner's obligations to ensure that (1) the proposed drainage works will not cause any adverse drainage or environmental impacts in the vicinity; and (2) the proposed drainage works and the downstream drainage

- (iii) no structures shall be built or materials stored within 1.5 metres from the centre line(s) of water main(s) (**Plan A-2a**). Free access shall be made available at all times for staff of WSD or their contractor to carry out construction, inspection, operation, maintenance and repair works;
- (iv) no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water main(s) (**Plan A-2a**). No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the DWS. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
- (v) no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5 metres around the cover of any valve or within a distance of 1 metre from any hydrant outlet; and
- (vi) tree planting may be prohibited in the event that the DWS considers that there is any likelihood of damage being caused to water mains.

9. **Demand and Supply of Small House Sites**

According to DLO/TP's records, the total number of outstanding Small House applications for Pun Shan Chau village are 10 while the 10-year Small House demand forecast is not available. Based on the latest estimate by the Planning Department, about 1.65 ha (or equivalent to about 66 Small House sites) of land are available within the "V" zone of Pun Shan Chau. As such, the land available in this village can fully meet the future Small House demand (about 0.25 ha or equivalent to about 10 Small House sites).

Recommended Advisory Clauses

- (a) to note the comments of District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that 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 a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (b) 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 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 applicant 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 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 the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner on his drainage proposal. 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. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
 - (iii) there is no existing public sewerage in the vicinity of the Site;
 - (iv) the proposed drainage works, whether within or outside the lots boundary, should be constructed and maintained by the lot owners at their expenses;
 - (v) for works to be undertaken outside the lots boundary, prior consent and agreement from DLO/TP and/or relevant private lot owners should be sought; and
 - (vi) the lot owner should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;

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 Commissioner for Transport (C for T) that the existing village access on and near the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) to note the comment of the Director of Environmental Protection (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 Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorised Person; and
- (g) to note that the permission is only given to the development under the 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.