

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.

Similar Applications

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/TP/266	Proposed House (Small House)	8/12/2000	A1
A/TP/274	Proposed New Territories Exempted House (NTEH) (Small House)	20/07/2001	A1-A3
A/TP/278	Proposed Seven Houses (Small House)	21/09/2001	A1-A2
A/TP/282	Proposed Five Houses (Small House)	16/11/2001	A1-A3
A/TP/286	Proposed Six Houses (Small House)	08/02/2002	A1-A3
A/TP/287	Proposed Two Houses (Small House)	01/03/2002	A1-A2
A/TP/300	Proposed Eight Houses (Small House)	11/10/2002	A1, A4
A/TP/302	Proposed NTEH (Small House)	25/10/2002	A1-A2
A/TP/303	Proposed NTEH (Small House)	25/10/2002	A1-A2
A/TP/320	Proposed NTEH (Small House)	09/01/2004	A1-A2
A/TP/353	Proposed 2 NTEHs (Small House)	29/07/2005	A1-A2
A/TP/363	Proposed NTEH (Small House)	13/01/2006	A1, A5
A/TP/380	Proposed 3 NTEHs (Small House)	20/10/2006	A1, A2, A5, A6
A/TP/424	Proposed NTEH (Small House)	27/03/2009	A4, A6
A/TP/425	Proposed NTEH (Small House)	27/03/2009	A4, A6
A/TP/464	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/465	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/466	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/467	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/468	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6

A/TP/469	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/470	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/471	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/472	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/473	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/474	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/475	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/476	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/477	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/525	Proposed 2 NTEHs (Small Houses)	5/10/2012	A1, A2, A6
A/TP/553	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/554	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/555	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/556	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/561	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/566	Proposed NTEH (Small House)	14/11/2014	A1, A2, A7
A/TP/570	Proposed NTEH (Small House)	13/03/2015	A1, A2, A7
A/TP/571	Proposed NTEH (Small House)	13/03/2015	A1, A2, A7, A8
A/TP/572	Proposed NTEH (Small House)	13/03/2015	A1, A2, A7, A8
A/TP/641	Proposed NTEH (Small House)	18/05/2018	A1, A7

Approval Conditions

- A1. The submission and/or provision/implementation of drainage facilities/ proposal.
- A2. The submission and implementation of landscaping proposals.
- A3. The provision of fire service installations.

- A4. The submission and implementation of landscape and tree preservation proposals (including a site formation plan, prior to commencement of site formation works).
- A5. The submission of a slope assessment and the implementation of stabilization works identified therein.
- A6. The provision for fire-fighting access, water supplies and fire service installations.
- A7. The provision of septic tank as proposed by the applicant at a location to the satisfaction of the Director of Lands or of the Town Planning Board.
- A8. The submission of a geotechnical investigation report and implementation of the necessary geotechnical remedial works.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/TP/562	Proposed NTEH (Small House)	17/10/2014	R1-R3
A/TP/662	Proposed NTEH (Small House)	3/5/2019	R1-R4

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zoning for the area which was to define the limits of urban development areas by natural features so as to contain urban sprawl and to provide passive recreational outlets. There was a general presumption against development within the "GB" zone. There was no strong justification in the current submission for a departure from the planning intention.
- R2. The application did not comply with the Town Planning Board Guidelines for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of existing natural vegetation affecting the existing natural landscape, and the applicant failed to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas and that the stability of the adjacent slope would not be adversely affected.
- R3. The application did not comply with the Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas and be subject to adverse geotechnical impact.
- R4. Land was still available within the "Village Type Development" ("V") zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu 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.

Detailed Comments from Relevant Government Departments

1. Land Administration

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

- (a) no objection to the applications;
- (b) the applicants are indigenous villagers (IVs) of Wun Yiu Village of Tai Po as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, their eligibility of Small House grant has yet to be ascertained;
- (c) the subject lots are held under Block Government Lease (demised for agricultural use). Small House applications submitted by the applicants for the application sites (the Sites) are still under processing;
- (d) the Sites fall entirely outside the village ‘environs’ (‘VE’) of San Uk Ka and are not covered by any Modification of Tenancy or Building Licence;
- (e) more than 50% of the Small House footprints fall within the “Village Type Development” (“V”) zone;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
San Uk Ka	17	35
Cheung Uk Tei	8	39
Sheung Wun Yiu	14	200
Ha Wun Yiu	2	Nil

(*The figure of 10-year Small House demand were estimated and provided by the IIRs of the concerned villages and the information so obtained is not verified by LandsD.)

- (g) should the applications be approved by the Town Planning Board (the Board), LandsD will process the Small House applications. However, there is no guarantee at this stage that the Small House applications would be approved. If Small House applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approvals 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 Houses concerned or approval of the Emergency Vehicular Accesses thereto.

2. **Traffic**

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

- (a) in general, he has reservation on the applications. Such type of development 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 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 applications only involving development of two Small Houses can be tolerated on traffic grounds; and
- (c) the existing village access on and near the Sites is not under Transport Department’s management. It is suggested that 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.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the applications; and
- (b) if the applications are approved, the applicants should be advised that 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 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 Authorized Person.

4. **Landscape**

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

- (a) no objection to the applications from the landscape planning point of view;
- (b) the Sites are situated in an area of rural landscape character comprising scattered tree groups and village houses. The proposed developments are considered not incompatible with the surrounding environment;
- (c) the Sites are vacant and covered with grasses and groundcovers. One existing *Citrus Limonia* (黎檬) in fair condition entwined with climbers is found within the site boundary of Application No. A/TP/665. Significant adverse impact arising from the proposed developments on landscape resources within the Sites is not anticipated; and
- (d) in view of that the Sites are not bounded by prominent public frontage, should the applications be approved by the Board, it is considered not necessary to

impose any landscape condition as its effect on public realm quality enhancement is not apparent.

5. Drainage and Sewerage

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

- (a) no in-principle objection to the applications from public drainage viewpoint;
- (b) there is no public drain maintained by DSD in the vicinity of the Sites. Should the applications be approved by the Board, a condition should be included to request the applicants to submit and implement the drainage proposal for the Sites to the satisfaction of the Director of Drainage Services to ensure that they will not cause adverse drainage impact to the surrounding areas and the residential premises located at their downhill side;
- (c) the proposed Small Houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Sites and their uphill overland flow. The applicants/owners are also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants/owners shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicants should design the drainage proposal based on actual site condition for DSD's comment/agreement. In the design, the applicants should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicants/owners should ensure no adverse drainage and geotechnical impact will be caused to the area due to the proposed developments. The proposed developments, located on unpaved ground and slope area, 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 to surrounding areas and the residential premises located at their downhill side. The applicants should take this into account when preparing the drainage proposal. 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 developments and the nearest extremity of the existing streamcourse/ pond/ river/ the top of embankment should be maintained;
- (e) public sewers are available in the vicinity of the proposed developments but connection to which might not be feasible. Views and comments from the DEP should be sought regarding the sewage disposal arrangement of the proposed developments;
- (f) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owners at their expense. For works to be undertaken outside the lot boundaries, prior consent and agreement from DLO/TP of LandsD and/or relevant private lot owner(s) should be sought;
- (g) the site formation levels of the proposed developments shall not cause flooding

risk to nearby area/premises. Comments/agreement from DLO/TP of LandsD for the finished site formation level should be sought; and

- (h) the applicants/owners should take all precautionary measures to prevent any disturbance, damage and pollution from the developments 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/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.

6. Agriculture

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

- has no strong view on the applications as the Sites are overgrown with common shrub and herbs.

7. Fire Safety

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

- (a) no comment on the applications; and
- (b) the applicants are advised to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the LandsD.

8. Water Supply

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

- (a) no objection to the applications; and
- (b) for provision of water supply to the developments, the applicants may need to extend their 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. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu is 41 while the 10-year Small House demand forecast for the same villages is 274. Based on the latest estimate by the PlanD, about 2.84 ha of land (equivalent to about 113 Small House sites) are available within the "V" zone of concerned villages. Therefore, the land available cannot fully meet the future demand of 315 Small Houses (equivalent to 7.88 ha of land).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Office/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 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 Authorized Person;
- (c) to note the comments of the Chief Engineer/Mainland North of 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 its uphill overland flow. 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;
 - (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 drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicant/owner should ensure no adverse drainage and geotechnical impact will be caused to the area arising from the proposed development. The proposed development, located on unpaved ground and slope area, 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 to surrounding areas and the residential premises located at its downhill side. The applicant should take this into account when preparing the drainage proposal. 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) public sewers are available in the vicinity of the proposed development but connection to which might not be feasible;
 - (iv) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense. For works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP of LandsD and/or relevant private lot owner(s) should be sought;

- (v) the site formation levels of the proposed development shall not cause flooding risk to nearby area/premises. Comments/agreement from DLO/TP of LandsD for the finished site formation level should be sought; and
- (vi) the applicant/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 lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that 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 standard;
- (e) 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;
- (f) 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 in order to avoid potential land disputes; 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.