

**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.

Town Planning Board Guidelines for “Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance” (TPB PG-No. 18A)

The Town Planning Board Guidelines (TPB PG-No. 18A) for “Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance” are relevant to this application. The major relevant points are as follows:

- (i) The Board may require all applications for permission in an area zoned as “CDA” to be in the form of MLP and supported by other relevant information;
- (ii) in general, the MLP should include plans showing the location of the “CDA” site and the general layout of the whole development and a development schedule showing the main development parameters;
- (iii) if the “CDA” site is not under single ownership, the applicant should be required to demonstrate that the proposed phasing of development has taken due consideration of the development potential of the lots which are not under his ownership. The corresponding GFA and flat number distribution as well as provision of GIC, open space and other public facilities in each phase should be clearly indicated;
- (iv) the MLP should be supported by an explanatory statement which contains an adequate explanation of the development proposal, including such basic information as land tenure, relevant lease conditions, existing conditions of the site, the character of the site in relation to the surrounding areas, principles of layout design, design population, provision of GIC, recreation and open space facilities including responsibility for their construction cost and operation/management, vehicular and pedestrian circulation system including widths and levels of roads/footbridges and whether they would be handed back to the Government on completion; and
- (v) additional information such as TIA, EA, HA, VIA and drainage/sewage impact studies may also be required, where appropriate.

**Previous s. 16 Application covering the Site on the
Tai Po Outline Zoning Plan**

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/TP/577	Proposed 4 Houses (New Territories Exempted Houses - Small Houses) and Minor Relaxation on Building Height from one storey to three storey and Plot Ratio from 0.64 to 1.37	13.3.2015	A1 – A3

Approval Conditions

- A1. The provision of septic tanks, as proposed by the applicants, at locations to the satisfaction of the Director of Lands or of the Town Planning Board.
- A2. The submission and implementation of landscape proposals.
- A3. The submission and implementation of drainage proposal.

**Similar s. 16 Applications for Proposed House
(New Territories Exempted House - Small House)
in the vicinity of the Site and within the same “CDA(1)” zone on the
Tai Po Outline Zoning Plan**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/TP/339	Proposed New Territories Exempted House - Small House)	17.12.2004	A1 – A2
A/TP/340	Proposed New Territories Exempted House - Small House)	17.12.2004	A1 & A5
A/TP/369	Proposed House (New Territories Exempted House - Small House)	2.6.2006	A1 & A5
A/TP/370	Proposed House (New Territories Exempted House - Small House)	2.6.2006	A1 – A3
A/TP/371	Proposed House (New Territories Exempted House - Small House)	2.6.2006	A1 – A3
A/TP/372	Proposed House (New Territories Exempted House - Small House)	2.6.2006	A1 & A5
A/TP/373	Proposed House (New Territories Exempted House - Small House)	2.6.2006	A1 – A3
A/TP/378	Proposed House (New Territories Exempted House - Small House)	15.9.2006	A1 – A2, A4
A/TP/411	Proposed House (New Territories Exempted House - Small House)	19.9.2008	A1 – A2, A4
A/TP/438	Proposed Two Houses (New Territories Exempted Houses - Small Houses)	20.11.2009	A4 & A5

Approval Conditions

- A1. The submission and implementation of landscaping proposals and/or including tree preservation proposal.
- A2. The submission and implementation of drainage facilities.
- A3. The provision of an emergency vehicular access with street fire hydrants/incorporation of residential sprinkler system.

A4. The provision of fire fighting access, water supplies and fire service installations.

A5. The provision of drainage facilities.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/TP/335	Proposed House (New Territories Exempted House - Small House)	3.12.2004	R1 – R3
A/TP/341	Proposed House (New Territories Exempted House - Small House)	22.4.2005 (on review)	R1 & R3
A/TP/462	Proposed House (New Territories Exempted House - Small House) and Minor Relaxation of Building Height Restriction (from 1 Storey to 3 Storeys)	7.3.2014	R4 – R6
A/TP/463	Proposed House (New Territories Exempted House - Small House) and Minor Relaxation of Building Height Restriction (from 1 Storey to 3 Storeys)	7.3.2014	R4 – R6
A/TP/595	Proposed 2 Houses (New Territories Exempted Houses - Small Houses) and Minor Relaxation of Building Height Restriction from 1 storey to 3 storeys and Plot Ratio from 0.64 to 1.536	5.8.2016 (on review)	R7 – R8

Rejection Reasons

R1. The proposed house (Small House) did not comply with the interim criteria for consideration of application for New Territories Exempted House (NTEH)/Small House in New Territories in that although it was located outside the village environs and more than 50% of its footprint fell within the "Village Type Development" ("V") zone, there was no general shortage of land in meeting the demand for Small House development in the "V" zone.

R2. The proposed house (Small House), which covered a very small portion of the "Comprehensive Development Area(1)" ("CDA(1)") zone and was piecemeal in nature, was not in line with the planning intention of the "CDA(1)" zone for

comprehensive development/redevelopment of the area for low-density residential and agricultural uses with the provision of open spaces and other supporting facilities.

- R3. No/insufficient information had been provided to demonstrate that land was not available within the "V" zones of Fung Yuen Village for Small House development.
- R4. The proposed Small House development did not comply with the Interim Criteria for assessing planning application for NTEH/Small House development in the New Territories in that there was no general shortage of land in meeting the demand for Small House development in the "V" zone. The applicant failed to demonstrate in the submission why land within "V" zone could not be made available for the proposed development.
- R5. The proposed Small House development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the applicant failed to demonstrate in the submission that the proposed development would not cause adverse drainage impact on the surrounding area.
- R6. The approval of the application would set an undesirable precedent for other similar developments to proliferate into the "CDA(1)" zone, thereby defeating the planning intention for comprehensive development of the area.
- R7. The proposed Small House developments did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House development in the New Territories in that there was no general shortage of land in meeting the demand for Small House development in the "V" zone.
- R8. Land was still available within the "V" zone of Fung Yuen for Small House development. It was considered more appropriate to concentrate the proposed Small House developments 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 application;
- (b) among the four applicants, three of them (i.e. Mr. YU Sui-weng, LAM Hok-ken Kenny and LAM Hok-leung Leo) are the indigenous villagers of Ting Kok while the remaining applicant Mr. CHUNG Shing-tat is an indigenous villager of Chung Uk Tsuen as confirmed by their Indigenous Inhabitant Representatives (IIRs);
- (c) the Site is under Block Government Lease (demised for agricultural use) and is not covered by any Modification of Tenancy or Building Licence. The applicants are the registered owners of the subject lots;
- (d) the Small House applications were approved by LandsD in 2016 and execution of licence documents are pending;
- (e) the Site falls entirely within the village ‘environs’ (‘VE’) of Fung Yuen;
- (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>
Fung Yuen	24	94*

(*the figure of 10-year Small House demand is estimated and provided by the IIR of Fung Yuen in 2016 and the information so obtained is not verified by his office); and

- (g) should the application be approved by the Board, LandsD will continue to process the Small House applications. There is no guarantee to the grant of right of way to the Small Houses concerned or approval of the 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) no objection to the application; and
- (b) if the application is 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 comment on the application from the landscape planning point of view;
- (b) as there is no significant landscape resources within the Site, significant landscape impact is not envisaged; and
- (c) the Site does not fall in “landscape sensitive zonings and areas” and the proposed development is unlikely to create any adverse visual and landscape impact, it is considered not necessary to impose any landscape-related condition should the application be approved by the Board.

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) should the application be approved by the Board, a condition should be included to request the applicants to submit and implement the drainage proposal for the Site to the satisfaction of the Director of Drainage Services to ensure they will not cause adverse drainage impact to the surrounding areas;
- (c) there is no existing DSD maintained public drains available for connection in the area. The applicants should have their 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 applicants should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicants are required to maintain such system properly

and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failures of the systems;

- (d) public sewerage are not available near the Site; and
- (e) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

6. Fire Safety

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

- (a) he has no objection to the application; and
- (b) the applicants are advised to 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.

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 proposed development, the applicants may need to extend the 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.

8. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Fung Yuen village is 24 while the 10-year Small House demand forecast for the same village is 94. Based on the latest estimate by the Planning Department, about 4.08 ha of land (equivalent to about 163 Small House sites) are available within the “V” zone of concerned village. Therefore, the land available can fully meet the future demand of 118 Small Houses (equivalent to 2.95 ha of land).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Office/Tai Po, Lands Department (DLO/TP, LandsD) that there is no guarantee to the grant of a right of way to the Small Houses 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 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, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no existing DSD maintained public drains available for connection in the area. The applicants should have their 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 applicants should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicants are required to maintain such system properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failures of the systems;
 - (ii) public sewerage are not available near the Site; and
 - (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.
- (d) 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 applicants may need to extend the 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;
- (e) to note the comments of the Director of Fire Services that the applicants 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; and

- (f) to note that the permission is only given to the developments under the application. If provision of an access road is required for the proposed developments, the applicants 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.