

**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 Application covering the Application Site
on the Ting Kok & Tai Po Outline Zoning Plans**

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/TP/449	Proposed House (New Territories Exempted House - Small House)	27.8.2010	A1-A4

- A1. The provision of fire-fighting access, water supplies and fire service installations.
- A2. The submission and implementation of landscape proposals.
- A3. The submission and implementation of drainage proposal.
- A4. The submission of a natural terrain hazard study and the implementation of the mitigation measures identified therein.

**Similar Applications within the same “GB” zone
on the Ting Kok & Tai Po Outline Zoning Plans (OZP)**

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Condition(s)
Ting Kok OZP			
A/NE-TK/219	Proposed House (New Territories Exempted House - Small House)	03/11/2006	A1,A2,A3
A/NE-TK/220	Proposed House (New Territories Exempted House-Small House)	03/11/2006	A1,A2,A3
A/NE-TK/221	Proposed House (New Territories Exempted House-Small House)	03/11/2006	A1,A2,A3
A/NE-TK/405	Proposed House (New Territories Exempted House - Small House)	05/10/2012	A1,A2
A/NE-TK/455	Proposed House (New Territories Exempted House - Small House)	19/07/2013	A2
A/NE-TK/514	Proposed House (New Territories Exempted House - Small House)	12/09/2014	A2,A3,A5
Tai Po OZP			
A/TP/442	Proposed House (New Territories Exempted House - Small House)	15/01/2010	A1,A2,A3
A/TP/445	Proposed House (New Territories Exempted House - Small House)	11/6/2010	A1,A2,A4,A7
A/TP/479	Proposed House (New Territories Exempted House - Small House)	14/01/2011	A1,A2,A3
A/TP/494	Proposed House (New Territories Exempted House - Small House)	03/06/2011	A1,A2,A4
A/TP/496	Proposed House (New Territories Exempted House - Small House)	03/06/2011	A1,A2,A4
A/TP/526	Proposed House (New Territories Exempted House - Small House)	05/10/2012	A1,A2,A6

A/TP/527	Proposed House (New Territories Exempted House - Small House)	05/10/2012	A1,A2,A6
A/TP/533	Proposed House (New Territories Exempted House - Small House)	19/04/2013	A2,A3
A/TP/587	Redevelopment of New Territories Exempted House (NTEH - Small House)	07/08/2015	A2,A3,A5
A/TP/594	Proposed House (New Territories Exempted House - Small House)	08/01/2016	A2,A3,A5
A/TP/632	Proposed House (New Territories Exempted House - Small House)	08/09/2017	A2,A5

Approval Conditions

- A1. The provision of fire-fighting access, water supplies and fire service installations.
- A2. The submission and implementation of drainage proposal.
- A3. The submission and implementation of landscape proposals.
- A4. The submission of a Natural Terrain Hazard Study (NTHS) and the implementation of the mitigation measures identified therein.
- A5. The provision of septic tank as proposed by the applicant.
- A6. The submission of a Geotechnical Planning Review Report (GPRR).
- A7. The submission and implementation of landscape and tree preservation proposal.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reason(s)
A/TP/580	Rebuilding of New Territories Exempted House	27/02/2015	R1
A/TP/591	Proposed House (New Territories Exempted House - Small House)	09/10/2015	R2-R6
A/TP/613	Proposed House (New Territories Exempted House - Small House)	24/02/2017 (on review)	R2, R4-R6

Rejection Reasons

- R1. The building footprint of proposed NTEH fell entirely within the “Green Belt” (“GB”) zone, the planning intention of which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within the “GB” zone.
- R2. The proposed development was not in line with the planning intention of “GB” zone, which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong planning justification in the submission to justify a departure from the planning intention.
- R3. 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 affected the existing natural landscape of the surrounding environment.
- R4. 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 the proposed development would cause adverse landscape impact on the surrounding area.
- R5. The approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the natural environment and landscape quality of the area.
- R6. Land was still available within the “Village Type Development” (“V”) zone of Wong Yue Tan 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) no objection to the application;
- (b) the applicant is an indigenous villager of Wong Yue Tan Village as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site falls within the village ‘environs’ (‘VE’) of Wong Yue Tan Village. It is not covered by any Modification of Tenancy or Building Licence;
- (d) the Site is held under Block Government Lease demised for agricultural use. Previously, Small House application (by way of land exchange involving government land) submitted by the applicant was approved in 2017, but the grant document has not been executed;
- (e) the High Court ruled on 8.4.2019 and confirmed in the orders granted on 30.4.2019 that the private treaty grant and land exchange arrangements involving government land under the Small House Policy were unconstitutional. Process of private treaty grant and land exchange for Small House on government land have been suspended. Subsequently, the applicant changed his Small House application (by way of Free Building Licence (FBL)) to be constructed entirely within Lot No. 947 S.A in D.D. 26 on 15.11.2018, and this FBL application is still under processing;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for Wong Yue Tan Village are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Wong Yue Tan	51	112

*The figure of 10-year Small House Demand is estimated and provided by the IIR of Wong Yue Tan and the information so obtained is not verified in any way by DLO/TP, LandsD

- (g) if and after approval has been granted by Town Planning Board (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 of 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):

- 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;
- (b) the Site falls partly within “Village Type Development” (“V”) zone and partly within “Green Belt” (“GB”) zone, and is outside water gathering grounds (WGG); and
- (c) if the application is approved, the applicant 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 (AP).

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 the landscape planning point of view;
- (b) the Site is situated in an area of rural landscape character comprising natural woodland and village houses. The proposed development is considered not incompatible with the surrounding environment;
- (c) the Site is vacant and covered with grasses. No existing tree is found within the Site. Significant adverse impact to landscape resources due to the proposed development is not anticipated; and
- (d) since the footprint of proposed Small House covers most of the Site, there is inadequate space for meaningful landscape to benefit public realm. Should the Board approve the application, it is considered unnecessary to impose any condition for submission and implementation of landscape proposal.

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) if the application is approved, a condition on submission and implementation of drainage proposal for the Site is required to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no existing DSD maintained public drain available for connection in the area. The applicant 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 applicant 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) 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. Nature Conservation

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

- no strong view on the application as the Site is overgrown with some common weeds and young trees.

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 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. Geotechnical Aspect

Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) the Site is overlooked by steep natural hillside and meets the alert criteria for a natural terrain hazard study (NTHS). The applicant is required to undertake a NTHS and to provide suitable mitigation measures, if found necessary, as part of the proposed development; and
- (b) given the applicant has submitted information on the NTHS report for the Site submitted via Buildings Department in December 2014, he has no comment on the application.

10. Demand and Supply of Small House Sites

According to DLO/TP, LandsD's record, the total number of outstanding Small House applications for Wong Yue Tan is 51 while the 10-year Small House demand forecast for the same village is 112. Based on the latest estimate by Planning Department, about 2.06 ha of land (equivalent to about 82 Small House sites) are available within the "V" zone. Therefore, the land available cannot fully meet the future Small House demand of 163 Small Houses (equivalent to about 4.08 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 the Small House application is approved by LandsD acting in the capacity of 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 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 (AP);
- (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 drain available for connection in the area. The applicant 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 applicant 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;
 - (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 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;
- (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; 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 the Town Planning Board where required before carrying out the road works.