

**Extract of the 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', favorable 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 related to So Kwun Wat Village involving
“Green Belt” zone**

Approved Applications

Application No.	Zoning(s)	Proposed Development	Date of Consideration	Approval Condition(s)
A/TM-SKW/38	“GB”	Proposed House (NTEH – Small House)	16.5.2003	A1 and A2
A/TM-SKW/41	“GB” and “V”	Proposed House (NTEH – Small House)	30.1.2004	A1 and A3
A/TM-SKW/51	“GB”	Proposed House (NTEH – Small House)	29.9.2006	A1, A3 and A4
A/TM-SKW/95	“GB” and “V”	Proposed House (NTEH – Small House)	30.9.2016	A1 and A5

Approval Conditions

- A1 the submission and implementation of landscape proposals to the satisfaction of the Director of Planning or of the Town Planning Board
- A2 the submission of stormwater drainage proposals and the provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board
- A3 the submission and implementation of the drainage facilities proposals to the satisfaction of the Director of Drainage Services or of the Town Planning Board
- A4 the provision of emergency vehicular access and fire fighting installations to the satisfaction of the Director of Fire Services or of the Town Planning Board
- A5 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

Rejected Applications

Application No.	Zoning(s)	Proposed Development	Date of Consideration	Rejection Reason(s)
A/TM-SKW/87	“GB”	Proposed House (NTEH – Small House)	8.8.2014	R1 to R4
A/TM-SKW/88	“GB”	Proposed House (NTEH – Small House)	8.8.2014	R1 to R4
A/TM-SKW/91	“GB”	Proposed House (NTEH – Small House)	12.12.2014	R1 to R4
A/TM-SKW/92	“GB”	Proposed House (NTEH – Small House)	12.12.2014	R1 to R4
A/TM-SKW/96	“GB”	Proposed House (NTEH – Small House)	14.7.2017	R1 to R4
A/TM-SKW/97	“GB”	Proposed House (NTEH – Small House)	14.7.2017	R1 to R4

* Applications Nos. A/TM-SKW/91 and A/TM-SKW/92 were submitted by the same two applicants covering the same two private lots for Small House development as applications Nos. A/TM-SKW/87 and A/TM-SKW/88. The applications were rejected under review on 10.4.2015 based on the same rejection reasons.

- R1 the proposed development is not in line with the planning intention of the “GB” zone which is 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 is a general presumption against development within this zone. There is no strong justification in the current submission for a departure from the planning intention of the “GB” zone;
- R2 the proposed development is not in line with the Town Planning Board Guidelines No. 10 (TPB PG-No.10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that there are no exceptional circumstances to justify the application;
- R3 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’ as land is still available within the “V” zone of So Kwun Wat Tsuen. It is more appropriate to concentrate the proposed Small House development within the “V” zone for an orderly development pattern and efficient use of land and infrastructure; and
- R4 the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area.

Detailed Comments from Government Department

Land Administration

Comments from the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site does not fall within any village environs of Tuen Mun Heung.
- (b) According to his record, the applicant has submitted an application for the erection of a Small House (“SH”) on the application lot. In the immediate vicinity of the Site, there are 3 SH applications. All four SH applications are under processing. Please refer to the table below:

S/N	D.D	Lot No. (All with SH application under processing)
1.	375	682 S.D ss.2
2.	375	682 S.D RP
3.	379	135 S.A
4.	379	135 RP (Application Site)

- (c) The applicant claimed to be an indigenous villager (“IV”) of So Kwun Wat in Tuen Mun Heung and his application for erection of a New Territories Exempted House (NTEH) under the Small House Policy on the Site is being processed. According to the procedures and guidelines for processing SH application, the applicant is required to attend a vetting interview for verification of his eligibility of SH grant and make a statutory declaration for his IV status submitted by his indigenous inhabitant representative upon satisfactory resolution of technical problems of his lot. Hence, the eligibility of SH grant of the applicant is yet to be verified.
- (d) There are 69 outstanding applications for SH on private land only under Free Building Licences (“FBL”)/Land Exchange not involving Government land in So Kwun Wat Village and the 10-year SH demand forecast as provided by the IIRs of So Kwun Wat Village is 157.
- (e) According to the record of the Land Registry, the application lot is held under Block Government Lease containing the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (f) There is no guarantee that the concerned SH application will be approved and LandsD reserve the right to take any action as may be appropriate. In the event that the SH application is approved, it would be subject to such any terms and conditions as Government shall deem fit.

Building Matters

Comments of Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD)

- (a) Based on the information available, the proposed building is NTEH which is exempted from the Buildings Ordinance under the Building Ordinance (Application to the New Territories) Ordinance (Cap 121 or the previous Cap 322) and his department is not in the position to offer

any comment.

- (b) Site formation works and drainage works for NTEH are building works under the Buildings Ordinance (BO). Unless the necessary certificate of exemption is issued by the Director of Lands, before any new site formation and/or drainage works for NTEH are to be carried out, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works.

Traffic

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

- (a) Considering the traffic flow to be generated from the proposed Small House should be minimal, and given the understanding that there is no vehicular access point to the lot, he has no adverse comment on the application from traffic engineering perspective.
- (b) Construction of such small houses might result in forming road and/or run-ins permanently on unallocated government land without approval from any departments (unauthorized run-ins), which could lead to public complaints and traffic concerns. It is considered impractical to apply Cap.374 or traffic management measures (e.g. use of traffic signs and road markings) to control unauthorized run-ins. As provision of vehicular access to a land lot associates with land use and is governed by the lease, and the right-of-way issues on Government Lands are often involved, LandsD's involvements and preventive measures are deemed necessary to deter the proliferation of unauthorized run-ins.
- (c) In addition, the applicant is reminded that temporary traffic arrangement should be submitted to the Police and his department for approval if it is proposed to modify temporarily roads/street furniture under their management for construction works and/or the public road traffic might be affected as a result.

Drainage

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

The applicant is requested to submit a drainage proposal with a drainage plan showing the details of existing drains and any proposed drainage works, including any peripheral drainage system for the Site and the relevant discharge point(s). The applicant should demonstrate the adequacy of existing / proposed drains such that no adverse drainage impact would result from the proposed Small House. Reference should be made to DSD Technical Notes to prepare a 'Drainage Submission' in DSD's homepage at

https://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf

Environment

Comments from the Director of Environmental Protection (DEP):

- (a) He understands that the applicant seeks planning permission for Small House at an area zone “Village Type Development” (“V”) and partly zoned “Green Belt” (“GB”) on the Tuen Mun OZP.
- (b) 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 Persons (ProPECC PN) 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person.

Fire Safety

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

- (a) He has no specific comment on the application.
- (b) The applicant is advised to observe “New Territories Exempted Houses – A Guide to fire safety Requirements” published by LandsD.

Nature Conservation

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

The Site is mostly hard paved. He notes that while the Site falls within the “V” and “GB” zones, the development footprint mostly falls within the “V” zone. He has no adverse comments on the application from the nature conservation perspective. Should the application be approved, the applicant is advised to avoid disturbance to the nearby wooded areas in the “GB” zone.

Landscape

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

- (a) The Site is located in So Kwun Wat, falls mainly within an area zoned “V” and partly zoned “GB” on the approved Tuen Mun OZP No. S/TM/35.
- (b) With reference to the planning statement and the site visit conducted on 24.5.2019, the Site is currently vacant without any major vegetation within its boundary. The proposed use is considered not incompatible with the surrounding landscape character and adverse landscape impact is not anticipated. Therefore, he has no objection to the application from landscape planning point of view. As there is no major public frontage along the Site, should the Town Planning Board (TPB) approve the application, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

District Officer’s Comments

Comments from the District Officers(Tuen Mun), Home Affairs Department (DO/TM, HAD):

He has distributed consultation letters to the locals concerned and understand that they would provide their comments (if any) to the Board direct.

Advisory Clauses

- (a) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that the Site does not fall within any village environs of Tuen Mun Heung. According to the record of the Land Registry, the application lot is held under Block Government Lease containing the restriction that no structures are allowed to be erected without the prior approval of the Government. There is no guarantee that the concerned Small House (SH) application will be approved and LandsD reserve the right to take any action as may be appropriate. The SH would be subject to such any terms and conditions as Government shall deem fit;
- (b) to note the comments of the Commissioner for Transport (C for T) that temporary traffic arrangement should be submitted to the Police and his office for approval if it is proposed to modify temporarily roads/street furniture under their management for construction works and/or the public road traffic might be affected as a result;
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that site formation works and drainage works for NTEH are building works under the Buildings Ordinance (BO). Unless the necessary certificate of exemption is issued by the Director of Lands, before any new site formation and/or drainage works for New Territories Exempted Houses are to be carried out, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works
- (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 LandsD;
- (e) 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 Persons (ProPECC PN) 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person; and
- (f) to note the comments of Director of Agriculture, Fisheries and Conservation (DAFC) that the applicant should avoid disturbance to the nearby wooded areas in the “Green Belt” zone.