

**Relevant 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) if 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.

**Relevant Extracts of Town Planning Board Guidelines for
Application for Development within Green Belt Zone
under Section 16 of the Town Planning Ordinance
(TPB PG-No. 10)**

1. To preserve the character and nature of the “GB” zone, the only uses which will always be permitted by the Town Planning Board (the Board) are compatible uses which are essential and for public purpose such as waterworks, water catchment areas, nature reserves, agriculture, forestry and certain passive recreational uses. Other uses, including government/institution/community (G/IC), residential development and public utility installations will require planning permission from the Board and each proposal will be assessed on its individual merits. Applications for development will be considered by the Board according to the criteria set out below.
2. Main assessment criteria:
 - (a) there is a general presumption against development (other than redevelopment) in “GB” zone. In general, the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;
 - (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds;
 - (c) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
 - (d) the design and layout of any proposed development should be compatible with the surrounding area. It should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
 - (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
 - (f) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features; and
 - (g) any proposed development on a slope or hillside should not adversely affect slope stability.

Previous Application covering the Application Site

Approved Application

	<u>Application No.</u>	<u>Use/Development</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1.	A/YL-LFS/371	Proposed Filling and Excavation of Land for 12 Permitted Houses (New Territories Exempted Houses - Small Houses)	23.10.2020	1, 2, 3

Approval Conditions

1. The submission of drainage proposal including flood mitigation measures before commencement of land filling and excavation works on the Site and the issue of any certificate of exemption by the Lands Department.
2. The implementation of the drainage proposal including flood mitigation measures identified therein upon completion of the land filling and excavation works on the Site.
3. Revocation clauses.

**Similar s.16 Applications for New Territories Exempted House
Within the same “GB” Zone on the Lau Fau Shan and Tsim Bei Tsui OZP**

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Zoning</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reasons</u>
1	A/YL-LFS/11	House (8 Small Houses)	GB	31.1.1997 (upon review)	1-4
2	A/YL-LFS/65	Proposed 5 New Territories Exempted Houses (NTEHs) (Small Houses) for Indigenous Village Expansion	GB & V	4.5.2001	1, 5-8
3	A/YL-LFS/174	Proposed House (New Territories Exempted House - Small House)	GB & V	15.8.2008	1, 2, 5-9
4	A/YL-LFS/175	Proposed House (New Territories Exempted House - Small House)	GB	15.8.2008	1, 2, 5-9
5	A/YL-LFS/176	Proposed House (New Territories Exempted House - Small House)	GB	15.8.2008	1, 2, 5-9
6	A/YL-LFS/177	Proposed House (New Territories Exempted House - Small House)	GB & V	15.8.2008	1, 2, 5-9
7	A/YL-LFS/178	Proposed House (New Territories Exempted House - Small House)	GB & V	15.8.2008	1, 2, 5-9
8	A/YL-LFS/179	Proposed House (New Territories Exempted House - Small House)	GB & V	15.8.2008	1, 2, 5-9
9	A/YL-LFS/180	Proposed House (New Territories Exempted House - Small House)	GB & V	15.8.2008	1, 2, 5-9

10	A/YL-LFS/191	House (New Territories Exempted House - Small House)	GB & V	10.7.2009	1, 2, 5-9
11	A/YL-LFS/231	Proposed 3 House (New Territories Exempted Houses (NTEHs) - Small Houses)	GB, R(C) & V	16.12.2011	1, 2, 5, 6, 8
12	A/YL-LFS/263	Proposed House (New Territories Exempted House - Small House)	GB, R(C) & V	13.6.2014	1, 2, 4, 6, 8, 10-12

Rejection Reasons

1. The proposed development is not in line with the planning intention of the "GB" zone for the area which is to define the limits of urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets.
2. The proposed development is not in line with the "Town Planning Board Guidelines for Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) as there is a general presumption against development within a "GB" zone.
3. Approval of the application will jeopardize the implementation of the future Tin Ying Road extension (Road D3) which is intended to serve the proposed Tin Shui Wai Reserve Zone development.
4. Approval of the application will set an undesirable precedent for similar applications.
5. There is insufficient information in the submission to demonstrate why suitable sites within "V" zones in the area cannot be identified for the proposed development.
6. The proposed developments did not comply with the interim criteria for assessing planning applications for New Territories Exempted House (NTEH)/Small House development in that more than 50% of the sites and proposed NTEHs footprints were outside the "Village Type Development" ("V") zone/ Land is still available within "V" zones in the area for New Territories Exempted House/Small House development.
7. The proposed development would be incompatible with the surrounding area which is rural in character.
8. No strong justification has been given in the submissions for a departure from such planning intention.
9. There was insufficient information/technical assessment in the submissions to demonstrate that the developments would not generate adverse landscape impact on the surrounding areas.
10. The applicant fails to demonstrate that the proposed development would not have any adverse drainage impacts.
11. The proposed development involved extensive clearance of existing natural vegetation and affected the existing natural landscape.
12. The applicant fails to demonstrate why suitable sites within the areas zoned "V" cannot be made available for the proposed development. The Small House developments should be concentrated within the "V" zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services.

Detailed Comments from the Relevant Government Departments

Land Administration

1. Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Site is an Old Schedule agricultural lot in D.D. 129 held under the Block Government Lease in which it is sub-divided from parent Lot No. 1135.
 - (b) The Site falls within the Village Environs Boundary of Mong Tseng Wai.
 - (c) According to his records, the Small House (SH) application within the Site is under processing.
 - (d) Should planning approval be given, the registered lot owner should inform DLO/YL, LandsD. DLO/YL will consider the SH application acting in the capacity as the landlord at its sole discretion in accordance with the NT SH Policy when the SH application is due for processing. There is no guarantee that such SH application would be approved. Any SH applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by LandsD.
 - (e) According to his records, for Mong Tseng Wai, the number of outstanding SH applications is 91 while the 10-year SH demand forecast is 160. For Mong Tseng Tsuen, the number of outstanding SH applications is 104 while the 10-year SH demand forecast is 65. It is advised that the figures of 10-year forecast are provided by the Indigenous Inhabitant Representatives of the Mong Tseng Wai and Mong Tseng Tsuen and DLO/YL is unable to verify such information.

Traffic

2. Comments of the Commissioner for Transport (C for T):
 - (a) He has no adverse comment on the application from traffic engineering point of view.
 - (b) No vehicles are allowed to queue back to or reverse onto/from public roads.
 - (c) The local track leading to the Site is not under Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.
3. Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

It is noted from the applicant's planning statement that no vehicular access is proposed or to be granted under the application. He has no comment on the application from highways maintenance point of view. If the application is approved, it is on the understanding that there is and will be no vehicular access to/from the Site.

Environment

4. Comments of the Director of Environmental Protection (DEP):
- (a) He has no objection to the application.
 - (b) 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" including completion of percolation test and are duly certified by an Authorized Person (AP).
 - (c) The applicant should be reminded that it is the applicant's responsibility to comply with all relevant environmental legislations during construction and operation of the project. The applicant is also advised to follow the Recommended Pollution Control Clauses for Construction Contracts (http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html) to minimize the environmental impacts during the construction stage.
 - (d) He observes that the Site falls within WBA. The applicant should follow the relevant requirements under TPB PG-No. 12C.
 - (e) No substantiated environmental complaint pertaining to the Site has been received in the past three years.

Landscape

5. Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) :
- (a) The Site, located to the north of Mong Tseng Tsuen, falls within an areas zoned "V" and "GB" on the OZP and WBA.
 - (b) According to the aerial photo of 2020, the Site is primarily a small vacant scrubland with a local dirt path. No existing tree is observed within the Site. The Site is situated in an area of rural coastal plain landscape character dominated by woodlands, ponds, village houses and some graves in the proximity. The proposed development is considered not entirely incompatible with the landscape character of the surrounding environment.
 - (c) According to aerial photos of 2014 - 2020, vegetation clearance including tree removal have been carried out over the years within the "GB" portion of the Site. Adverse landscape impact has taken place. No planning application similar to the proposed development is observed within the same "GB" zone in the vicinity of Mong Tseng Wai. While the affected "GB" zone is not the major portion of the Site, there is concern that approval of the planning application may encourage similar developments encroaching into "GB" zone and undertaking vegetation clearance and site formation prior to obtaining planning permission. The cumulative impact of which would result in a general degradation of the landscape quality of the surrounding environment. Hence, she has reservation on the application from landscape planning perspective.

- (d) In view that no significant visual impact arising from the proposed development is anticipated, it is considered not necessary to impose a landscape condition should the application be approved by the Board.

Agricultural and Nature Conservation

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

The Site falls mainly on the “V” zone and partly on the “GB” zone. According to her inspection, it is found that site clearance has been carried out recently. Noting the Site is disturbed and vacant, she has no adverse comment on the application from nature conservation point of view. In view of the zoning of the Site and the application is about a non-agricultural proposal, she has no comment on the application from agricultural point of view.

Drainage

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

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest that conditions should be stipulated in the approval letter requiring the applicant to submit a drainage proposal including flood mitigation measures for the proposed land filling and excavation works, to implement and maintain the proposed flood mitigation measures/drainage facilities to the satisfaction of his department. The flood mitigation measures shall be completed upon the completion of land filling/excavation works.

Building Matters

- 8. Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Noting that the building to be erected on the Site will be NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), DLO/YL, LandsD should be in a better position to comment on the application.
- (b) In case DLO/YL, LandsD decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, formal application for approval and consent for such works from the Building Authority under the Buildings Ordinance (BO) is required.
- (c) In this circumstance, an Authorized Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL, LandsD or seek AP’s advice for details. The applicant’s attention is drawn to the Practice Note for Authorized Persons, Registered Structural Engineers and

Registered Geotechnical Engineers APP-56 regarding the exemption criteria for site formation works associated with the NTEH development.

Geotechnical

9. Comments of the Head (Geotechnical Engineering Office), Civil Engineering and Development Department (H(GEO), CEDD):
- (a) She has no adverse comment on the application.
 - (b) She would not comment on the proposed site formation works as shown in the planning statement at this stage. It is noted that the proposed SH development would involve filling of land. GEO is not responsible for the control of land filling activities.
 - (c) The applicant should submit the proposed site formation and excavation works to BD for approval under the provisions of the BO. Her office will provide geotechnical comments on the proposed works via BD. In addition, it is noted that the proposed small house development would involve filling of land. GEO is not responsible for the control of land filling activities. The applicant should submit the proposed excavation works to BD for approval as required under the provisions of the BO.

Electricity Supply Safety

10. Comments of the Director of Electrical and Mechanical Services (DEMS):
- (a) He has no particular comment on the application from electricity supply safety aspect.
 - (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. The applicant should observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

11. Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from locals on the application.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site is an Old Schedule agricultural lot in D.D. 129 held under the Block Government Lease in which it is sub-divided from parent Lot No. 1135. The Site falls within the Village Environs Boundary (VEB) of Mong Tseng Wai. According to his records, the SH application within the Site is under processing. The registered lot owner should inform DLO/YL, LandsD about the planning approval. DLO/YL will consider the SH application acting in the capacity as the landlord at its sole discretion in accordance with the NT Small House Policy when the SH application is due for processing. There is no guarantee that such SH application would be approved. Any SH applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by LandsD;
- (c) to note the comments of the Commissioner for Transport (C for T) that no vehicles are allowed to queue back to or reverse onto/from public roads. The local track leading to the Site is not under Transport Department's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that it is noted from the planning statement that no vehicular access is proposed or to be granted under the application. The application is approved on the understanding that there is and will be no vehicular access to/from the Site;
- (e) 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" including completion of percolation test and are duly certified by an Authorized Person (AP). It is the applicant's responsibility to comply with all relevant environmental legislations during construction and operation of the project. The applicant is also advised to follow the Recommended Pollution Control Clauses for Construction Contracts (http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html) to minimize the environmental impacts during the construction stage. He observes that the Site falls within WBA. The applicant should follow the relevant requirements under TPB PG-No. 12C;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that in case DLO/YL, LandsD decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, formal application for approval and consent for such works from the Building Authority under the Buildings Ordinance (BO) is required. In this circumstance, an Authorized Person (AP) should be

appointed as the coordinator for the proposed works. The applicant may approach DLO/YL, LandsD or seek AP's advice for details. The applicant's attention is drawn to the Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-56 regarding the exemption criteria for site formation works associated with the NTEH development;

- (g) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) that the applicant should submit the proposed site formation and excavation works to BD for approval under the provisions of the BO. Her office will provide geotechnical comments on the proposed works via BD. In addition, it is noted that the proposed small house development would involve filling of land. GEO is not responsible for the control of land filling activities. The applicant should submit the proposed excavation works to BD for approval as required under the provisions of the BO; and

- (h) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. The applicant should observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.