

**Extract of the “Interim Criteria for Consideration of Application
for New Territories Exempted House (NTEH)/Small House in New Territories”
(Promulgated on 7.9.2007)**

The relevant assessment criteria for planning application are extracted as follows:

- (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 recognised 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

Approved Application

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/DPA/YL-TT/12 [^]	Small Houses	24.1.1992	(1), (2), (3)

[^] The application site was zoned “Unspecified Use” on the then draft Tai Tong Development Permission Area Plan No. DPA/YL-TT/1 at the time of consideration.

Approval Condition(s):

- (1) Provision of stormwater drainage facilities.
- (2) Provision of sewage treatment and disposal facilities.
- (3) The permission shall cease to have effect on 24.1.1994 unless prior to the said date either the development permitted is commenced or the permission is renewed.

Similar Applications within/straddling the same “AGR” zone on the Tai Tong OZP

Rejected Applications

	<u>Application No.</u>	<u>Proposed Development(s)/Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TT/265 [^]	Proposed House (NTEH – Small House)	19.11.2010 (on review)	(1), (2)
2	A/YL-TT/283	Proposed House (NTEH – Small House)	15.4.2011	(1), (2)
3	A/YL-TT/287	Proposed House (NTEH – Small House)	22.7.2011	(1), (3), (4)
4	A/YL-TT/299	Proposed House (NTEH – Small House)	16.3.2012	(1), (3), (5), (6), (7)
5	A/YL-TT/307	Proposed House (NTEH – Small House)	18.1.2013 (on review)	(1), (2), (3), (5)

[^] The application site straddles an adjoining “Village Type Development” zone.

Rejection Reason(s):

- (1) Not in line with the planning intention of the “AGR” zone.
- (2) Does not comply with the “Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories” (Interim Criteria) in that the proposed Small House footprints fall entirely outside the ‘Village Environs’ and ‘V’ zone.
- (3) The applicant fails to demonstrate why suitable sites within the concerned “V” zone(s) could not be made available for the Small House development.
- (4) Approval of the application would set an undesirable precedent.
- (5) Does not comply with the Interim Criteria in that there was no shortage of land within the concerned “V” zone(s) in meeting the demand of Small House development.
- (6) The applicant fails to demonstrate that adverse landscape impact on existing trees within the site would be mitigated.
- (7) There are no exceptional circumstances to justify approval of the application.

Detailed Comments of Government Department Concerned

Land Administration

1. Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) There is one Small House (SH) application under processing within the application site (the Site), while 3 SH applications under processing and 4 SH applications approved are located within 30m radius circle measured from the boundary of the Site. The SH applications under his processing are at departmental circulation stage.
 - (b) The number of outstanding SH applications of Kong Tau Tsuen, Kong Tau San Tsuen, Nga Yiu Tau, and Tong Tau Po Tsuen are 54, 6, 35 and 5 respectively. The 10-year forecast (2016-2025) of SH demand for Kong Tau Tsuen and Kong Tau San Tsuen, Nga Yiu Tau, and Tong Tau Po Tsuen are 275, 81 and 35 respectively. The figure of the 10-year forecast is provided by the Indigenous Inhabitant Representatives and he is unable to verify such information.
 - (c) The Site does not fall within the Village Environs Boundary (VEB) of any recognised village in the locality.
 - (d) The Site is an Old Schedule Agricultural Lot and does not have a building status.
 - (e) If a proposed SH site is outside or more than 50% of it is outside the VEB of a recognised village and the “V” zone which encircles the recognised village, the concerned SH application will be rejected under the New Territories Small House Policy even though the applicant is an indigenous villager who has successfully sought planning permission. On the other hand, consideration will be given to application for proposed house site within or at least 50% of it is within a “V” zone which encircles a recognised village and is larger than 300 feet village environs. His approval to SH grant is not automatic even if the applicant has obtained s.16 approval from the Board. The grant is subject to all criteria being met and all relevant factors being considered.
 - (f) Should planning approval be given to the subject planning application, the registered lot owner should inform him, and he will consider the SH application acting in the capacity as the landlord and there is no guarantee that such application would be approved. Any 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 his department.

Building Matters

2. Comments of the Chief Building Surveyor/New Territories West (CBS/NTW, BD):
 - (a) Noting that the building to be erected on the Site will be New Territories Exempted House (NTEH) under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), DLO/YL should be in a better position to comment on the captioned application.

- (b) In case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP's advice for details.

Traffic

- 3. Comments of the Commissioner for Transport (C for T):
 - (a) He understands that there will be no vehicular ingress/egress to the Site and no parking space to be provided within the Site.
 - (b) The land status of the access road/path/track leading to the Site from Long Ho Road shall be checked with the lands authority.
 - (c) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- 4. Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
 - (a) His department is not/shall not be responsible for the maintenance of any access connecting the Site and Long Ho Road.
 - (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Drainage

- 5. Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) He has no objection in principle to the proposed development from the public drainage point of view.
 - (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.
 - (c) The applicant should be reminded to maintain all drainage facilities on site in good condition and ensure that the proposed development would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.

Environment

- 6. Comments of the Director of Environmental Protection (DEP):

With respect to the public comment concerning noise impact from the proposed development, residential use is a sensitive use instead of a noise emitter according to the Hong Kong Planning Standards and Guidelines. Hence, the erection of the proposed SH will unlikely induce adverse noise impact to the nearby area. Notwithstanding the above, the applicant is advised to follow the “Recommended Pollution Control Clauses for Construction Contracts” to minimise the noise impact during the construction stage.

Fire Safety

7. Comments of the Director of Fire Services (D of FS):
 - (a) He has no in-principle objection to the application.
 - (b) The applicant is reminded to observe the “NTEH – A Guide to Fire Safety Requirements” published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

Nature Conservation

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

The Site falls within the “AGR” and “V” zones and is currently a private backyard. Surrounded by domestic structures and fallow land, the Site possesses low potential for agricultural rehabilitation. As such, she has no strong view on the application from agriculture point of view.

Landscape

9. Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (a) She has no objection to the application from the landscape planning perspective.
 - (b) With reference to the aerial photo of 2018, the Site is completely vegetated with shrubs and a large tree. The Site is in an area of village landscape character. In view that other existing village houses are found in the vicinity, the proposed use is not incompatible with the surrounding environment.
 - (c) In consideration that the Site is not adjoining any prominent public frontage and there is limited space within the Site for landscape treatment, it is considered that the landscape condition is not necessary should the Board approve this application.
 - (d) Should the application be approved, the applicant should be advised that approval of the application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/ government department(s) direct to obtain the necessary approval on tree works.

District Officer’s Comments

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

Her office has not received any locals' comment on the subject application by 9.8.2019 and has no comment from departmental point of view.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) at the application site (the Site);
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site does not fall within the Village Environs Boundary (VEB) of any recognised village in the locality. The Site is an Old Schedule Agricultural Lot and does not have a building status. If a proposed Small House (SH) site is outside or more than 50% of it is outside the VEB of a recognised village and the “Village Type Development” (“V”) zone which encircles the recognised village, the concerned SH application will be rejected under the New Territories Small House Policy even though the applicant is an indigenous villager who has successfully sought planning permission. On the other hand, consideration will be given to application for proposed house site within or at least 50% of it is within a “V” zone which encircles a recognised village and is larger than 300 feet village environs. His approval to SH grant is not automatic even if the applicant has obtained s.16 approval from the Town Planning Board (the Board). The grant is subject to all criteria being met and all relevant factors being considered. The registered lot owner should inform him, and he will consider the SH application acting in the capacity as the landlord and there is no guarantee that such application would be approved. Any 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 his department;
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that in case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the New Territories Exempted House (NTEH) development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP’s advice for details;
- (d) to note the comments of the Commissioner for Transport that the land status of the access road/path/track leading to the Site from Long Ho Road should be checked with the lands authority. The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department is not/shall not be responsible for the maintenance of any access connecting the Site and Long Ho Road. Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains;
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that all drainage facilities on Site should be maintained in good condition and the proposed development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.;
- (g) to note the comments of the Director of Environmental Protection that the

“Recommended Pollution Control Clauses for Construction Contracts” should be followed to minimise the noise impact during the construction stage. The guideline is available at his department’s website: https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc_1.html;

- (h) to note the comments of the Director of Fire Services that the “NTEH – A Guide to Fire Safety Requirements” published by LandsD should be observed. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD; and
- (i) to note the comments of the Chief Town Planning/Urban Design and Landscape, Planning Department that approval of the planning application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. Relevant authority/government department(s) should be approached directly to obtain the necessary approval on tree works.