

**Relevant Revised 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', 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.

TOWN PLANNING BOARD GUIDELINES FOR
APPLICATION FOR DEVELOPMENT WITHIN GREEN BELT ZONE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

(Important Note :

The guidelines are intended for general reference only. The decision to approve or reject an application rests entirely with the Town Planning Board and will be based on individual merits and other specific considerations of each case.

Any enquiry on this pamphlet should be directed to the Planning Information and Technical Administration Unit of the Planning Department, 17th Floor, North Point Government Offices, 333 Java Road, Hong Kong - Tel. No. 2231 5000.

These guidelines are liable to revision without prior notice. The Town Planning Board will only make reference to the guidelines current at the date on which it considers an application.)

1. Introduction

- 1.1 The planning intention of the "Green Belt" ("GB") zone is primarily to promote the conservation of the natural environment and to safeguard it from encroachment by urban-type developments.
- 1.2 The "GB" zone covers mainly slopes and hillsides, most of which is naturally vegetated. Some "GB" areas are also designated as Country Parks. Most of the land within the "GB" zone is Government land, although there are also small pockets of private land, generally near built-up areas.
- 1.3 The main purposes of the "GB" zone include the following :
 - a. to conserve existing landscape features, areas of scenic value and areas of recognised "fung shui" importance;
 - b. to define the outer limits of urbanized districts and to serve as a buffer between and within urban areas; and
 - c. to provide additional outlets for passive recreational uses.
- 1.4 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 Planning Criteria

- a. There is a general presumption against development (other than redevelopment) in a "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 a "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas. With the exception of New Territories Exempted Houses, a plot ratio up to 0.4 for residential development may be permitted.
- c. Applications for New Territories Exempted Houses with satisfactory sewage disposal

facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers.

- d. Redevelopment of existing residential development will generally be permitted up to the intensity of the existing development.
- e. Applications for G/IC uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available. The plot ratio of the development site may exceed 0.4 so as to minimize the land to be allocated for G/IC uses.
- f. Passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration.
- g. The design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment.
- h. 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. Tree preservation and landscaping proposals should be provided.
- i. The proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area.
- j. The proposed development must comply with the development controls and restrictions of areas designated as water gathering grounds.
- k. The proposed development should not overstrain the overall provision of G/IC facilities in the general area.
- l. The proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.
- m. Any proposed development on a slope or hillside should not adversely affect slope stability.

1. Land Administration

Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no comment on the application;
- (b) the subject lot is held under Block Government Lease (demised for agricultural use);
- (c) the Site is within the “VE” of Sheung Yeung;
- (d) there is no Small House application received at the Site;
- (e) there are 36 outstanding Small House applications in Sheung Yeung (i.e. 2 Land Exchange and 34 Private Treaty Grant). These outstanding Small House applications involve Government Land. Please be advised that in response to the recent judgement on a judicial review of the Small House Policy (HCAL 260/2015), the Lands Department has suspended the processing of Private Treaty Grant and Land Exchange applications received;
- (f) the Indigenous Inhabitant Representative of Sheung Yeung Village has not provided the 10-year forecast for Small House Demand;
- (g) the location of the 36 outstanding Small House applications in Sheung Yeung are as follows:
 - (i) Lot No. 106 s.B in D.D. 225 (Land Exchange);
 - (ii) Lot No. 136 in D.D. 225 (Land Exchange);
 - (iii) government land near Lot No. 171 in D.D. 225 (Private Treaty Grant); and
 - (iv) the other 33 applications, including the application from the applicant of the subject case, involve Private Treaty Grant on government land without indication of their proposed location for erection of Small Houses.

2. Traffic

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

- (a) he has reservation on the application;
- (b) such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development at the current “GB” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (c) notwithstanding the above, the application only involves construction of one NTEH – Small House. He considers that the application can be tolerated unless it is rejected on other grounds; and
- (d) the access road leading to the Site is not managed by the Transport Department. The status of the road should be checked with the lands authority. The management and maintenance responsibilities of the same road should be clarified with the relevant

lands and maintenance authorities accordingly.

3. Environment

Comments of the Director of Environmental Protection (DEP):

it is noted that the Site falls within an area zoned “GB” on the OZP. The scope of the proposed development comprises of one 3-storey high house. In view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.

4. Urban Design and Visual

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

- (a) the application involves the erection of a NTEH – Small House on a site falling within an area zoned “GB” on the OZP; and
- (b) the Site is surrounded by vegetated area to the north, east, south and west with a 3-storey residential dwelling to its immediate southwest. Further north, south and west are residential dwellings and structures in Sheung Yeung Village consisting of 1 to 3 storeys village houses. Given that the surroundings are largely low-rise residential dwellings of similar heights, the proposed development is considered not incompatible with the surrounding area and significant visual impact is not anticipated.

5. Landscape

Comments of the CTP/UD&L, PlanD:

- (a) no objection to the application from the landscape planning point of view;
- (b) the Site is located at Sheung Yeung near Clear Water Bay Road and Pak To Avenue. It is currently zoned “GB” on the OZP. The Site was not the subject of any previous s.16 application, but an s.12A application (No. Y/SK-CWBN/9) to rezone the Site from “GB” to “V” was not agreed to by the Board on 1.2.2019;
- (c) with reference to aerial photos taken in December 2015 and August 2018, and a site visit dated 4.12.2018, the Site is situated at a lawn and an existing local road, with the site area of 112.6m². The Site is abutting an area zoned as “V” to its immediate southwest and other “V” zones are found further to the northwest across a local road. No significant vegetation was identified within the Site and significant adverse landscape impact to the Site and surroundings due to the proposed use is not anticipated; and
- (d) with the consideration of limited space of the Site (only 112.6m²) and its abutting “GB” zone, should the Board approve this application, it is not necessary to impose a landscape approval condition as its effect on enhancing the quality of public realm is not apparent.

6. Sewerage

Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/Mainland South, DSD):

as the concerned lot is currently not covered by DSD public sewerage networks, views on sewage treatment / proposal should be sought from the DEP direct.

Comments of DEP:

- (a) it is noted that the applicant is committed to install sewage septic tank for sewage treatment for the proposed development. The applicant is reminded to follow the requirements stipulated in Environmental Protection Department's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by EPD" and are duly certified by an Authorized Person (AP) as per the following standard advisory clause on design of septic tank and soakaway system:

"note the Director of Environmental Protection's advice 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 EPD" and are duly certified by an Authorized Person (AP)"

- (b) the applicant is also advised to connect to the public sewerage system when available.

7. Drainage

Comments of the CE/Mainland South, DSD:

the concerned lot is currently not covered by DSD public drainage networks. As the applicant did not provide sufficient drainage details, on the condition that adequate stormwater drainage collection and disposal facilities will be provided in connection with the proposed development to deal with the surface run-off of the Site and the same flowing onto the Site without causing any adverse impacts or nuisance to the adjoining areas, there is no objection in-principle to the application from drainage maintenance viewpoint.

8. Building Matters

Comments of the Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) no objection to the application under the Buildings Ordinance ("BO"), noting that the NTEH fulfils the requirement of certificate of exemption under Cap. 121; and
- (b) the applicant should be reminded that all non-exempted ancillary site formation and / or communal drainage works are subject to compliance with BO, and Authorized Person must be appointed for the aforesaid site formation and communal drainage works.

9. Nature Conservation

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

- (a) the Site is composed of a lawn and cultivate land. Based on the current conditions of the Site, he has no strong view on the proposal from nature conservation perspective; and
- (b) his department has received a complaint regarding land excavation and clearance at the Site in 2017. As the affected area fell within private land, no enforcement action had been taken.

10. 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 the “New Territories Exempted House – A Guide to fire safety Requirements” published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department.

11. Water Supply

Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his 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.

12. Electrical Safety

Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no particular comment from electricity supply safety aspect; and
- (b) in the interest 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 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 Site. They should also be reminded to 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.

13. District Officer’s Comment

Comments of the District Officer/ Sai Kung, Home Affairs Department (DO/SK, HAD):

the Chairman of the Hang Hau Rural Committee and village representatives of Sheung Yeung support the application. DC member of the relevant constituency and the Chairman of Sai Kung Area Committee hold no comment.

14. Demand and Supply of Small House Sites

According to DLO/SK, LandsD, the number of outstanding Small House applications in Sheung Yeung is about 36 while the Indigenous Inhabitants Representative has not provided the 10-year forecast for Small House demand. According to the latest estimate by PlanD, it is estimated that about 1.85ha of land (or equivalent to about 74 Small House sites) is still available within the “V” zone of Sheung Yeung. Therefore the land available in Sheung Yeung can meet the future Small House demand for 36 Small House sites.

Advisory Clauses

- (a) to note the comments of the Director of Environmental Protection 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 EPD" and are duly certified by an Authorized Person (AP). The applicant is also advised to connect to the public sewerage system when available;
- (b) to note the comments of the Chief Engineer/ Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his 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;
- (c) to note the comments of the Director of Fire Services that the applicant is advised to observe the "New Territories Exempted House – A Guide to fire safety Requirements" published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal application referred by Lands Department;
- (d) to note the comments of the Chief Building Surveyor/ New Territories East 2 & Rail, Buildings Department that all non-exempted ancillary site formation and / or communal drainage works are subject to compliance with BO, and AP must be appointed for the aforesaid site formation and communal drainage works; and
- (e) to note the comments of the Director of Electrical and Mechanical Services that in the interest 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 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 Site. They should also be reminded to 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.