

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/371

- Applicants** : Mr. TANG Nam Shing and Mr. CHEUNG Man Tung represented by Aikon Development Consultancy Limited
- Site** : Lots 1135 S.A ss.1, 1135 S.A ss.2, 1135 S.A ss.3, 1135 S.A ss.4, 1135 S.A ss.5, 1135 S.A ss.6, 1135 S.A ss.7, 1135 S.A ss.8, 1135 S.A ss.9, 1135 S.A RP, 1135 S.B (Part), 1135 S.C RP (Part), 1135 S.D, 1135 S.E. 1135 S.F, 1135 RP (Part) and 1136 in D.D. 129, Mong Tseng Tsuen, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,325 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Proposed Filling and Excavation of Land for 12 Permitted Houses (New Territories Exempted Houses - Small Houses)

1. The Proposal

- 1.1 The applicants seek planning permission for proposed filling and excavation of land at the application site (the Site) for 12 permitted New Territories Exempted Houses (NTEHs) - Small Houses (SHs) (**Plan A-1**). The Site falls within an area zoned “V” on the OZP. According to the Notes of the OZP for the “V” zone, ‘House (NTEH only)’ is a Column 1 use which is always permitted. However, any filling of land/pond or excavation of land, including that to effect a change of use to any of those specified in Columns 1 and 2, requires permission from the Town Planning Board (the Board). The Site is currently vacant and covered by vegetation.
- 1.2 According to the applicant, the Site is situated in a slope which has two portions. The southwestern portion is sloping down from north to south at +18.5mPD to +12.5mPD while the northeastern portion is sloping down from north to south at +20mPD to +14.5mPD. Meanwhile, the Site is sloping down from north-east (+17.5mPD) to south-west (+12.5mPD) direction. The Site is located on a slope

with uneven ground level. The applicants propose to first excavate about 980 m² of land which is soft fill with a depth of not more than 2.5 m and then fill the whole site (about 2,325 m²) with compact fill of not more than 4.5 m depth to form and consolidate the Site. Four major platforms will be formed at proposed site formation levels of +17mPD, +18.5mPD and +20mPD to facilitate the development of 12 permitted small houses (**Drawings A-2 and A-3**). The Site is accessible via a local track leading from Deep Bay Road (**Drawing A-1**). The proposed access, existing ground levels, proposed site formation levels and drainage plans are at **Drawings A-1 to A-4** respectively.

1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application form received on 28.8.2020 (Appendix I)
- (b) Further Information (FI) received on 12.10.2020 with (Appendix Ia) clarification on existing and proposed site formation levels and provision of a revised access plan
(*exempted from publication and recounting requirements*)

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the development proposal of **Appendix I**. They can be summarized as follows:

- (a) the applicants are indigenous villagers of a recognized village, i.e. Mong Tseng Wai, and propose to build SHs of regulated development parameters on their own private land for self-occupation. The current application is in line with the current SHs policy;
- (b) the proposed use facilitates the construction of SHs for self-occupation in an orderly development pattern and efficient use of land within the Mong Tseng Wai;
- (c) the proposed use is in line with the planning intention of the “V” zone and is compatible with the village character in the surrounding areas in terms of both land use and built form;
- (d) the proposed use is to unify the ground level and to bring about certain extent of betterments from construction, visual, maintenance and management points of view such that the SHs can be built in a consistent and effective manner;
- (e) the Site is accessible to Deep Bay Road via an existing local track. The traffic generation and attraction is anticipated to be minimal. During construction period, no large machinery would be used for construction, while building materials would be transported by trolley or wheelbarrow by manpower. Temporary hoarding and provision of water spray would be adopted to minimise nuisance of dust/noise; and
- (f) no adverse environmental, traffic, drainage and sewerage impacts on the surrounding areas are anticipated in view of its small scale and appropriate mitigation measures to be taken.

3. Compliance with the “Owner’s Consent/Notification” Requirements

One of the applicants is one of the “current land owners” and the applicants have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification’ Requirements under Sections 12A and 16 of the Town Planning Ordinance” (TPB PG-No. 31A) by sending notification letters to other “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement action.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) are relevant. According to the said Guidelines, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment (EcoIA) would also need to be submitted. Some local and minor uses (including NTEHs) are however exempted from the requirement of EcoIA.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

- 7.1 Within the same “V” zone, there are 3 similar applications (No. A/YL-LFS/58, 72 and 216) for proposed pond filling for NTEHs and/or agricultural use. All of them were approved/approved upon review with conditions by the Rural and New Town Planning Committee (the Committee) or the Board.
- 7.2 Applications No. A/YL-LFS/58 and 72 for proposed pond filling for NTEH as well as proposed pond filling for NTEH and agricultural use were approved with conditions by the Committee on 25.8.2000 and 3.8.2001 respectively on the considerations that the proposed pond filling was to effect the planned use as NTEH and there was no in-principle objection from Drainage Services Department (DSD) provided that approval conditions on drainage matters would be imposed.

- 7.3 Application No. A/YL-LFS/216 for proposed pond filling (by about 2 m) for permitted NTEH was approved with conditions upon review by the Board on 1.2.2013 on the considerations that no significant negative impacts on the ecological value of the WCA were anticipated with the implementation of precautionary/mitigation measures, no adverse ecological and drainage impacts were anticipated and technical concerns could be addressed by approval conditions, the approval of application would not set an undesirable precedent for similar application as each application would be considered on its own merits.
- 7.4 Details of the above applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently vacant and covered by vegetation;
- (b) accessible via a local track leading from Deep Bay Road (**Plan A-1**); and
- (c) within the Village Environs of Mong Tseng Wai and Mong Tseng Tsuen.

8.2 The surrounding areas have the following characteristics:

- (a) to its east are the residential dwellings of Mong Tseng Wai and parking of vehicles;
- (b) to its south are the residential dwellings of Mong Tseng Tsuen (the closest residential dwelling is about 9.8 m away), parking of vehicles and grassland;
- (c) to its west are some residential dwellings; and
- (d) to its north and north-west in the “Green Belt” zone are graves and grassland.

9. Planning Intention

The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of SHs by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. As filling of land/pond and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities in the “V” zone.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application is summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises 17 Old Schedule Agricultural lots all in D.D. 129 held under the Block Government Lease in which 16 lots are sub-divided from parent Lot No. 1135, while Lot No. 1136 remains undivided. Lot No. 1135 S.A ss.9 bears house status by conversion of the agricultural lot.
- (b) The Site falls within the Village Environs Boundary (VEB) of Mong Tseng Wai and part of it falls within the common VEB of Mong Tseng Wai and Mong Tseng Tsuen.
- (c) According to the records, there are 3 SH applications under processing and 9 SH applications have been approved within the Site:

SH Applications under processing	Approved SH applications
<u>Lot No(s) in D.D. 129</u> (1) Lot No. 1135 S.C RP (2) Lot No. 1135 S.B (3) Lot No. 1135 S.E	<u>Lot No(s) in D.D. 129</u> (1) Lot No. 1135 S.A ss.1 (2) Lot No. 1135 S.A ss.2 (3) Lot No. 1135 S.A ss.3 (4) Lot No. 1135 S.A ss.4 (5) Lot No. 1135 S.A ss.6 (6) Lot No. 1135 S.A ss.7 (7) Lot No. 1135 S.A ss.8 (8) Lot No. 1135 S.D (9) Lot No. 1135 S.F

- (d) The 3 SH applications within the Site are currently under their processing stage. The application for redevelopment of Lot No. 1135 S.A ss.9 in D.D. 129 has been rejected.
- (e) Should planning approval be given, the registered lot owners should inform DLO/YL, LandsD. DLO/YL will consider the SH applications acting in the capacity of a landlord at its sole discretion in accordance with the NT Small House Policy when the SH applications are due for processing. There is no guarantee that such SH applications 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 the LandsD.

Traffic

10.1.2 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Landscape

10.1.3 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 area zoned “V” on the OZP and WBA.
- (b) According to the aerial photo of 2019, the Site is vacant and generally covered with groundcovers. No tree or other significant vegetation is observed within the site boundary. The Site falls within an area of rural coastal plains landscape character predominated by village houses, burial grounds, woodlands and fish ponds. A similar planning application No. A/YL-LFS/58 involving pond filling for NTEH within the same “V” zone was approved by the Board in 2000. The proposed filling and excavation of the Site is considered not entirely incompatible with the landscape character of the surrounding area. In view that significant adverse landscape impact is not envisaged, she has no objection to the application from landscape planning perspective.
- (c) Considering there are existing trees at the surrounding of the Site, it is considered not necessary to impose any landscape condition should the application be approved by the Board.

Environment

10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) He has no objection to the application.
- (b) The applicants should be reminded that it is the applicants' responsibility to comply with all relevant environmental legislations during construction and operation of the project. The applicants are 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.

- (c) He observes that the Site falls within WBA. The applicants should follow the relevant requirements under TPB PG-No. 12C.
- (d) No substantiated environmental complaint pertaining to the Site has been received in the past three years.

Nature Conservation

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

The Site falls within the “V” zone near the “Conservation Area” (“CA”) zone. According to the site inspection, there are some semi-mature and mature trees along the fence wall at the northern and southern boundaries of the Site. The applicant is advised to preserve those trees at the vicinity as far as possible and avoid encroaching on the area zoned “CA”. She has no adverse comments on the application from nature conservation point of view.

Drainage

10.1.6 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 applicants to submit a drainage proposal including flood mitigation measures, 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

10.1.7 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 (BO) (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, such works will require prior approval and consent under the BO. In this circumstance, an Authorized Person (AP) should be appointed as the coordinator for the proposed works. The applicants may approach DLO/YL, LandsD or seek AP’s advice for details.

Geotechnical

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

- (a) The GEO has no adverse comment on the application.
- (b) The GEO would not comment on the site formation plans and retaining wall layout/plans attached in the planning statement at this stage. The applicants should be reminded to submit proposed building works to BD for approval as required under the provisions of the BO. Geotechnical comments on the proposed works would be provided via BD.
- (c) GEO is not responsible for the control of land filling activities.

District Officer's Comments

10.1.9 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.

10.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), CEDD (PM(W), CEDD);
- (b) Principal Project Coordinator/Special Duty, DSD (PPC/SD, DSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Fire Services (D of FS);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Commissioner of Police (C of P);
- (g) Commissioner for Transport (C for T); and
- (h) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During the Statutory Publication Period

On 4.9.2020, the application was published for public inspection. During the statutory public inspection period, 7 public comments were received from a member of Yuen Long District Council, villagers and individuals objecting to the application and the reasons are summarized below (**Appendices III-1 to III-7**):

- (a) the high density of houses would adversely affect village life and the local ecology;
- (b) there is a lack of essential information with regard to the applicants and misrepresentations might be involved;
- (c) the planning application should be processed only when all proposed SH applications had been approved by the LandsD;
- (d) there is a lack of various impact assessments;

- (e) the proposed use will generate adverse drainage, traffic, village access, “*feng shui*”, visual and environmental impacts to the surrounding area; and
- (f) approval of the application would set an undesirable precedent for similar applications within the “V” zone.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed filling and excavation of land for 12 permitted NTEHs at the Site. The Site is zoned “V” on the OZP which is to designate both existing recognized villages and areas of land considered suitable for village expansion. Whilst ‘House (NTEH only)’ is always permitted within the “V” zone, filling and excavation of land within “V” zone is subject to planning permission as it may cause adverse drainage impact on the adjacent areas and adverse impact on the natural environment. The proposed filling and excavation of land which is to facilitate an always permitted NTEHs development within “V” zone, is considered in line with the planning intention of the “V” zone.
- 12.2 The Site is situated in an area of rural coastal plains landscape character predominated by village houses, burial grounds and woodlands. The proposed filling and excavation of land for permitted NTEHs is considered not entirely incompatible with the landscape character of the surrounding area.
- 12.3 The Site falls within WBA under the TPB PG-No. 12C. The intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. According to the TPB PG-No. 12C, SH development is exempted from EcoIA submission requirement. DAFC has no adverse comment on the application from nature conversation perspective. In view of the above and having regard to the planning intention for the Site, the application is considered not in contravention with the TPB PG-No. 12C.
- 12.4 The requirement for planning permission for filling and excavation of land within “V” zone is to address the possible drainage impact. CE/MN, DSD advises that he has no objection to the application, provided that the applicants would submit a drainage proposal including flood mitigation measures and to implement the proposed drainage facilities and flood mitigation measures to the satisfaction of his department. As such, relevant approval conditions are recommended in paragraph 13.2 below to address DSD’s concern. Any non-compliance with the approval conditions would result in revocation of the planning permission.
- 12.5 Other relevant Government departments, including DEP, C for T, CHE/NTW, HyD, D of FS and CTP/UD&L, PlanD, have no objection to or no adverse comment on the application on the environmental, traffic, fire safety and landscape aspects.
- 12.6 The Committee/Board have approved 3 similar applications (No. A/YL-LFS/58, 72 and 216) for pond filling for NTEHs within the same “V” zone. Approval of the current application is in line with the previous decision of the Committee/the Board.

- 12.7 There are 7 public comments objecting to the applications on the grounds summarized in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 23.10.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the implementation of the drainage proposal including flood mitigation measures identified therein upon completion of the land filling and excavation works on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) if any of the above planning conditions (a) or (b) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applicants fail to demonstrate that the proposed filling and excavation of land would not cause adverse drainage and ecological impacts on the surrounding areas.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission and the date when the validity of the permission should expire.

14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix I	Application form received on 28.8.2020
Appendix Ia	FI received on 12.10.2020 with clarification on existing and proposed site formation levels and provision of a Revised Access Plan
Appendix II	Similar Applications
Appendices III-1 to III-7	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan with Access
Drawing A-2	Existing Ground Level Plan
Drawing A-3	Proposed Site Formation Level Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**