

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/574

- Applicants** : Messers Leung Man Kit, Shing Wai Kit, Leung Man Hong, Leung Wai Kit and Leung Yiu Wai represented by Glister Engineering Consultants Company
- Site** : Lots 182 S.A RP, 182 S.B, 182 S.C, 182 S.D RP and 182 RP (Part) in D.D. 123, near Shing Uk Tsuen, Ping Shan, Yuen Long, New Territories
- Site Area** : About 843 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/17 (at the time of submission)

Approved Ping Shan OZP No. S/YL-PS/18 currently in force
- Zoning** : “Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Proposed Filling of Pond for Four Permitted Houses (New Territories Exempted Houses – Small Houses)

1. The Proposal

- 1.1 The applicants seek planning permission for proposed filling of pond for 4 permitted New Territories Exempted Houses (NTEHs) (Small Houses) at application site (the Site) (**Plan A-1**). The Site falls within an area zoned “V” on the OZP. According to the Notes for the “V” zone on the OZP, ‘House (NTEH only)’ is a Column 1 use which is always permitted. 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 or uses/developments always permitted under the covering Notes, requires planning permission from the Town Planning Board (the Board).
- 1.2 The proposed height of filling is 1.3 m, which will raise the site level from 3.0 mPD to 4.3 mPD (**Drawing A-5**). The Site is currently accessible via a footpath leading to Fuk Shun Street and vehicular access will not be provided to the proposed NTEHs (**Plans A-1 and A-3**). However, during the construction period, the applicants propose to use the existing local access at its south leading to Fuk

Shun Street (**Drawing A-6**). The location of the Site is shown on **Plans A-1** and **A-2**. The Site is currently a pond covered in weeds (**Plan A-4a** and **A-4b**). The layout plans of the NTEHs, section plan of the pond filling extent and the plan showing the vehicular access during construction period submitted by the applicants are at **Drawings A-1 to A-6**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form and attachments received on 22.10.2018 (**Appendix I**)
 - (b) Further information (FI) received on 8.2.2019 responding to departmental comments (*accepted and exempted from publication and recounting requirements*) (**Appendix Ia**)
 - (c) FI received on 11.3.2019 clarifying trip generation with revised access plan (*accepted and exempted from publication and recounting requirements*) (**Appendix Ib**)
- 1.4 On 21.12.2018, the Rural and New Town Planning Committee (the Committee) agreed to the applicants' requests to defer making a decision on the application for two months to allow time for the preparation of FI to address departmental comments. Subsequently, the applicant submitted FI to address comments from Government departments. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in section 9 of **Appendix I** and FI received on 8.2.2019 (**Appendix Ia**). They can be summarized as follows:

- (a) 3 out of 4 proposed Small Houses (SHs) applications have been approved by the Lands Department (LandsD) and the proposed development is compatible with the surrounding area.
- (b) The purposes of pond filling are to raise the level to avoid flooding and to consolidate the ground condition.
- (c) The extent of pond filling is considered insignificant as it does not form any slope/wall higher than 1.5 m.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicants are the sole "current land owners". Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

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.

The Site falls within the Wetland Buffer Area (WBA) of TPB PG-No. 12C. The relevant assessment criteria are summarised 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.
- (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.

5. Background

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

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

- 7.1 There are 5 similar applications within the same “V” zone on the OZP.
- 7.2 Application No. A/YL-PS/464 is for proposed filling of land for permitted NTEHs (Small Houses). The maximum filling height is 1.48 m for construction of 7 Small Houses. It was approved with conditions by the Committee on 12.12.2014. The major considerations were in line with the planning intention; not contravening TPB PG-No. 12C; and no objection from relevant Government departments.
- 7.3 Applications No. A/YL-PS/474, 476, 480 and 481 are for proposed filling of land for permitted NTEHs (Small Houses). The proposed height of filling is 1.3 m, which will raise the site level from 3.0 mPD to 4.3 mPD to facilitate the construction of 4 Small Houses for Applications No. A/YL-PS/474, 476, and 480 and 6 Small Houses for Application No. A/YL-PS/481. They were approved with conditions by the Committee on 13.3.2015, 17.4.2015, 3.7.2015 and 17.7.2015 respectively. The major considerations were in line with the planning intention; not contravening TPB PG-No. 12C; no objection from relevant Government departments; and in line with the previous decisions of the Committee.
- 7.4 Details of the similar applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently a pond covered in weeds; and

- (b) accessible via a footpath leading to Fuk Shun Street (**Plan A-2**);
- 8.2 The surrounding areas have the following characteristics (**Plans A-2 to A-4b**):
- (a) to the east is vacant land. To the further east is a site with permission for proposed land filling for NTEHs (Small Houses) (Application No. A/YL-PS/464);
 - (b) to the immediate south and southwest are three sites with permissions for proposed land filling for NTEHs (Small Houses) (Applications No. A/YL-PS/474, 480 and 481);
 - (c) to the immediate west is a site with permission for proposed land filling for NTEHs (Small Houses) (Application No. A/YL-PS/476); and
 - (d) to the immediate north across the footpath is a pond.

9. Planning Intention

The “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses 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 New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The 4 lots are Old Schedule Agricultural Lots held under Block Government Lease. 3 SHs on Lots 182 S.A RP, 182 S.B and 182 S.C in D.D. 123 were approved and terms and conditions have been offered, which has been accepted by the SH applicants pending execution of Building Licence. For SH application on Lot 182 S.D RP in D.D. 123, it is still under processing.
- (b) By considering the general profile of the subject lots and the existing formation levels of the surrounding areas, his office has no adverse comment on the proposed final formation level of filling at +4.3mPD subject to the comments from GEO, CEDD from the

geotechnical point of view and approval under the Geotechnical Report submitted by the applicants.

- (c) Should planning approval be given, the registered lot owner(s) should inform DLO/YL, LandsD. DLO/YL will consider the SH application(s) acting in the capacity of a landlord at its sole discretion in accordance with the NT Small House Policy. There is no guarantee that such application(s) would be approved. Besides, in general, application for NTEH development other than under NT Small House Policy will not be entertained. 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 the LandsD.

Building Matters

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

- (a) Site formation works and drainage works are building works under the control of the Buildings Ordinance (BO). Before any new site formation and/or drainage works are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed site formation and/or drainage works in accordance with the BO.
- (b) Notwithstanding the above, the Director of Lands may issue a certificate of exemption from prior approval and consent of the BA in respect of site formation and/or drainage works in the New Territories under the Buildings Ordinance (Application to the New Territories) Ordinance. The applicants may approach the DLO/YL, LandsD or seek AP's advice for details.

Environment

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

- (a) He notes that the applicants seek permission for proposed filling of pond for four permitted NTEHs at an area within "V" zone on the Ping Shan OZP. As the Site is within the WBA which is intended 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, he trusts Director of Agriculture, Fisheries and Conservation (DAFC) would advise under his purview if the proposed filling of pond is acceptable.
- (b) From environmental point of view, the applicants are advised to adopt appropriate water pollution preventive measures/practices set out in the guidance notes 'Practice Note for Professional Person (ProPECC) PN 1/94 "Construction Site Drainage"' and

'Recommended Pollution Control Clauses for Construction Contracts' to prevent polluting adjacent waterbodies during the proposed filling of pond.

- (c) He would like to remind that it is the obligation of the applicants to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.
- (d) For the permitted NTEHs, the applicants should follow the requirements in Chapter 9 of the HKPSG for sewage disposal. If septic tank and soakaway system is used, its design and construction should follow the requirements of the ProPECC PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". Provisions should be made for connections to public foul sewers when such is available in the vicinity.

Conservation

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

- (a) The Site falls within the WBA and is in close proximity to the WCA intended to conserve the ecological value of the fish ponds forming part of the wetland ecosystem in the Deep Bay area (TPB PG-No. 12C refers).
- (b) His site inspection in May 2017 revealed that the Site and its surrounding area are mainly wetland habitats likely to be developed from abandoned agricultural land. The proposed pond filling would inevitably result in loss of or decline in wetland area and function in the Deep Bay area. Approving the subject application might cause undesirable precedent effect on encouraging other similar development within the WBA and further degrade the ecological value of the fishpond/wetland in Deep Bay area. In this regard, he does not support the application from nature conservation point of view.
- (c) Notwithstanding the above, it is noted that the Site is zoned "V" and under private ownership of villagers. The relevant authorities should consider striking a balance between wetland conservation and local demand for SH development in the area. In this regard, it is noted that the proposed SH applications have been granted by DLO/YL according to the applicants' submission.

Traffic

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

- (a) The Site is connected to the public road network via a section of a local access which is not managed by Transport Department (TD). The land status of the local access road should be clarified with the LandsD by the applicants. Moreover, the management and

maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

- (b) Should the application be approved, the condition of no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning period should be incorporated.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Fuk Shun Street.
- (b) Approval of TD shall be obtained for the proposed access arrangement for construction vehicles (e.g. dump truck, etc.), if any.
- (c) No road furniture (e.g. barrier, bollards, etc.) shall be removed unless approval of TD and HyD is obtained.
- (d) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (e) If application is approved, the applicants are reminded that the approval is granted on the understanding that there is and will be no vehicular access to and from the Site, with a view to avoiding future dispute.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Water Supplies

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

- (a) He has no comment on the application.
- (b) For provision of water supply to the development, the applicants may need to extend their inside services to the nearest government water mains for connection. The applicants shall resolve any land

matter (such as private lots) associated with the provision of water supply and shall be responsible for the installation, operation and maintenance of any sub-main within the private lots to the WSD's standards.

Fire Safety

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

- (a) He has no comment on the application.
- (b) The applicants are advised to follow "New Territories Exempted Houses – A Guide to Fire Safety Requirements" issued by the LandsD.

Landscape

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

- (a) The Site is located to the west of Tai Tseng Wai and lies in an area of "V" zone. The Site is subject to a withdrawn application (No. A/YL-PS/550) for proposed land filling to which he had no objection from the landscape planning perspective. The current application seeks planning permission for the same use by the same applicant.
- (b) With reference to the site visit by his office on 5.11.2018, it is observed that the Site is vegetated by wild grass and shrubs. The area adjoining to the south of the Site is observed to be formed with ongoing small house construction. Significant change to the landscape character arising from the application is not anticipated, hence he has no objection to the application from the landscape planning perspective.
- (c) In consideration of the space remaining after developing the NTEH, it is opined that there is no space left for any effective landscape treatment for screening and/or bringing visual enhancement to the public realm, and therefore impractical to impose a landscape condition.

Electricity Supply

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

- (a) He has no 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. 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.

Geotechnical

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

- (a) It is noted that the applicants proposed a mass concrete wall along the site boundary. The applicants should be reminded to submit the proposed site formation works to the satisfaction of the Buildings Department prior to commencement of the proposed site formation works, if found necessary.
- (b) It is noted that the finished surface at the boundary of the proposed filling is vertical/sub-vertical as shown in Section 1-1. The proposed filling could affect the existing footpath and adjacent land.
- (c) It is also noted that the proposed filling is aimed at construction of NTEHs.
- (d) In addition, please be reminded that CTP/CEP previously reported suspected unauthorised filling of ponds and excavation of land at various lots in D.D. 123 and one of the sites is close to the captioned land lots.

Others

10.1.13 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department’s (FEHD) facilities will be affected and no environmental nuisance, pest infestation and obstruction to the surrounding should be caused.
- (b) The applicants should arrange their disposal of waste properly at their own expenses.
- (c) Proper licence/permit issued by his department is required if there is any catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer’s Comments

10.1.14 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), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (c) Antiquities and Monuments Office (AMO);
- (d) Director of Leisure and Cultural Services (DLCS); and
- (e) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

11.1 On 22.10.2018, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period, which ended on 12.11.2018, 4 public comments were received (**Appendices III-1 to III-4**).

11.2 Four individuals object to the proposed development. The major grounds are that the development affects the environment, ecology and fung shui of the nearby village. There is no road connection to the Site. The construction works would cause pollution to the surrounding. There is no shortage of land in the village and it would be more appropriate to concentrate the proposed Small House developments for a more orderly development pattern, efficient use of land and provision of infrastructure and services.

12. Planning Considerations and Assessments

12.1 The proposed filling of pond involves a total area of about 843 m² and a height of 1.3 m. The proposed filling of pond will increase the site level from 3.0 mPD to 4.3 mPD to facilitate the construction of 4 Small Houses, of which 3 have been approved and 1 is under processing by LandsD subject to conditions including obtaining planning permission if land/pond filling is required.

12.2 The Site falls within “V” zone on the OZP where ‘House (NTEH)’ only is a Column 1 use which is always permitted. However, the Notes of the OZP also stipulates that 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 or uses/developments always permitted under the covering Notes, requires planning permission from the Board. The proposed pond filling to facilitate Small House developments is considered in line with the planning intention of the “V” zone.

12.3 The requirement for planning permission for filling of pond within “V” zone is to address the possible drainage impact. The applicants state that the 1.3 m high filling is to avoid flooding and for consolidation of the Site. CE/MN, DSD advises that he has no objection in principle to the application and is of the view that drainage related approval conditions be imposed to address his requirements on the drainage aspect. Therefore, it is recommended that approval conditions on the submission and implementation of drainage proposal be imposed. The maintenance of drainage facilities would be addressed under the Small House grants.

- 12.4 The Site also 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. The proposed pond filling will not directly affect the wetland within the WCA. Although DAFC does not support the application from nature conservation point of view in that the proposed pond filling would inevitably result in loss of or decline in wetland area and function in Deep Bay Area, he notes that the Site is zoned “V” and under private ownership of villagers and the proposed SH applications have been granted or under processing by DLO/YL. 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.
- 12.5 Other relevant Government departments, including DEP, CHE/NTW, HyD, D of FS and CTP/UD&L, PlanD, have no objection to or no adverse comment on the application. DEP comments that the design and operation of the septic tank and soakaway system should follow the requirements in ProPECC PN 5/93. Provisions should be made for connections to public foul sewers when such is available in the vicinity. CTP/UD&L considers that significant change to the landscape character arising from the application is not anticipated, and has no objection to the application from landscape planning perspective.
- 12.6 There are 5 similar approved applications (No. A/YL-PS/464, 474, 476, 480 and 481) for land filling for NTEHs in its vicinity within the same “V” zone. Approval of the application is in line with the previous decisions of the Committee.
- 12.7 There are 4 public comments received during the statutory publication period. Their grounds are summarized in paragraph 11 above. The planning considerations and assessments as stated in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment 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 22.3.2023, 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) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (b) the submission of drainage proposal including drainage mitigation measures before 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;

- (c) the implementation of drainage proposal including drainage mitigation measures identified therein upon completion of the pond filling works to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (d) if any of the above planning conditions (a), (b) or (c) 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 development would not cause adverse ecological and drainage impacts.

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 period of which the permission should be valid on a temporary basis.
- 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 applicant.

15. Attachments

Appendix I	Application Form with attachments received on 22.10.2018
Appendix Ia	FI received on 8.2.2019 responding to departmental comments
Appendix Ib	FI received on 11.3.2019 clarifying trip generation with revised access plan
Appendix II	Similar Applications
Appendices III-1 to III-4	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan of Lot 182 S.A RP in D.D. 123
Drawing A-2	Layout Plan of Lot 182 S.B in D.D. 123
Drawing A-3	Layout Plan of Lot 182 S.C in D.D. 123
Drawing A-4	Layout Plan of Lot 182 S.D RP in D.D. 123
Drawing A-5	Section Plan of Pond Filling
Drawing A-6	Vehicular Access Plan during construction period

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2019**