

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/598

<u>Applicant</u>	: Tang Fuk Keung Eric represented by Despace (International) Limited
<u>Site</u>	: Lot 178 S.A ss.4 S.B in D.D. 123, Ping Shan, Yuen Long, New Territories
<u>Site Area</u>	: About 114.9 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
<u>Zoning</u>	: “Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23 m)]
<u>Application</u>	: Proposed Filling of Pond for a Permitted House (New Territories Exempted House – Small House)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed filling of pond for a permitted New Territories Exempted House (NTEH) (Small House) (SH) at the 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 area of pond filling is about 32.3m² and the proposed maximum depth of filling is 1.01m, which will raise the lowest site level from 3.19 to 4.2 mPD (**Drawing 2**). The Site is currently accessible via a footpath leading to Fuk Shun Street and vehicular access will not be provided to the proposed NTEH (**Plan A-2**). The location of the Site is shown on **Plans A-1** and **A-2**. The Site is currently a pond covered in weeds (**Plans A-3** and **A-4**). The layout plan of the NTEH and section plan of the pond filling extent submitted by the applicant is at **Drawings A-1 and A-2**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form and attachments received on 23.10.2019 (**Appendix I**)
- (b) Supplementary Planning Statement (**Appendix Ia**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in section 4 of **Appendix Ia**. They can be summarized as follows:

- (a) the proposed pond filling is to avoid flooding and consolidate the ground condition to facilitate the building of NTEH;
- (b) by the time the application was submitted, there were six similar applications for proposed pond/land filling for the construction of NTEHs in proximity to the Site approved by the Board;
- (c) the Site is surrounded by similar permitted house developments. The proposed NTEH development at the Site is visually compatible with the surroundings;
- (d) the extent of pond filling is compatible and insignificant. The proposed final site formation level is at 4.2mPD which are similar to the site formation levels of about 4-4.3mPD of the adjacent developments;
- (e) there is no vehicular access to the Site from Fuk Shun Street; and
- (f) the application will not generate significant environmental and noise disturbance to the surrounding environment and residents.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guideline

Town Planning Board Guideline 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 not subject to planning enforcement action.

6. **Previous Application**

There is no previous application at the Site.

7. **Similar Applications**

- 7.1 There are 8 similar applications within the same “V” zone on the OZP.
- 7.2 Applications No. A/YL-PS/464, 474, 476, 480 and 481 are for proposed filling of land for permitted NTEHs (SHs). The proposed height of filling ranges from 1.3m to 1.48m, which will raise the site level to 4.3 mPD to facilitate the construction of 7 SHs for Application No. A/YL-PS/464, 4 SHs each for Applications No. A/YL-PS/474, 476 and 480 and 6 SHs for Application No. A/YL-PS/481. They were approved with conditions by the Committee in 2014 and 2015.
- 7.3 Applications No. A/YL-PS/574, 596 and 597 are for proposed filling of pond for permitted NTEHs (SHs). The proposed depth of filling ranges from 0.64m to 2.2m, which will raise the site levels to 4.3 mPD to facilitate the construction of 4 SHs for Application No. AYL-PS/574 and 1 SH each for Applications No. A/YL-PS/596 and 597. They were approved with conditions by the Committee in 2019. The major considerations were in line with the planning intention of the “V” zone; 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 Their Surrounding Areas (Plans A-1 to A-4)**

- 8.1 The Site is:
- (a) currently a pond covered in weeds; and
 - (b) accessible via a footpath leading to a local access road (**Plan A-2**);
- 8.2 The surrounding areas have the following characteristics (**Plans A-2 to A-4**):
- (a) to the east is vacant land. To the further east is a site with permission for proposed land filling for NTEHs (SHs) (Application No. A/YL-PS/464);
 - (b) to the south are two sites with permission for proposed pond filling for NTEHs (SHs) (Applications No. A/YL-PS/596 and 597);

- (c) to the west is vacant land. To the further west are 5 sites with permissions for proposed land/pond filling for NTEHs (SHs) (Applications No. A/YL-PS/474, 476, 480, 481 and 574); 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 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.

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 lot is Old Schedule Agricultural Lot held under Block Government Lease. The subject SH application on Lot No. 178 S.A ss.4 S.B in D.D. 123 is still under processing.
- (b) 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 application, 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) Noting that the building to be erected on the Site will be NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), DLO/YL should be in a better position to comment on the 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 this circumstance, an Authorized 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.

Environment

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

- (a) In view of the small scale of the works, he has no adverse comment on the proposed pond filling for the permitted NTEH development.
- (b) The applicant is advised to adopt appropriate water pollution preventive measures / practices set out in the following guidance notes to prevent polluting adjacent waterbodies during the proposed filling of pond:
- Practice Note for Professional Person (ProPECC) PN 1/94 "Construction Site Drainage" :
http://www.epd.gov.hk/epd/sites/default/files/epd/english/resources_publications/files/pn94_1.pdf
 - Recommended Pollution Control Clauses for Construction Contracts:
http://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html
- (c) Nevertheless, as the Site falls within WBA, it would be prudent to seek AFCD's comments on the ecological aspects.

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 October 2019 revealed that the Site is currently a grassy marsh while the surrounding area comprises paved areas and 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. The relevant authorities should consider striking a balance between wetland conservation and local demand for SH development in the area.

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 applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Understanding that vehicular access will not be provided to the Site during construction and in long term, and considering that the traffic flow for the Site would be negligible, he has no comment from traffic engineering point of view.
- (c) Should the application be approved, the condition of ‘no vehicle is allowed to enter 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) 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.

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 objection to the application subject to the following comments.
- (b) For provision of water supply to the development, the applicant may need to extend their inside services to the nearest 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 installation, operation and maintenance of any sub-main within the private lot to the WSD's standards.

Fire Safety

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

- (a) He has no specific comment on the application.
- (b) The applicant is advised to follow "New Territories Exempted Houses – A Guide to Fire Safety Requirements" issued by the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by 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 current application seeks planning permission for the proposed filling of pond for NTEH (SH).
- (b) With reference to the site photos taken in Oct 2019, it is observed that the Site is covered by wild grass and shrubs. In view of the approved Applications No. A/YL-PS/596 and A/YL-PS/597 for the same use to the south of the Site, 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 view of the limited site area, it is considered not necessary to impose a landscape condition should the application be approved by the Board.

Geotechnical

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

- (a) The GEO has no in-principle geotechnical objection to the application.

- (b) It is noted that the proposed filling of pond aims at construction of NTEH. The applicant should be reminded to submit building/site formation works to the Buildings Department/LandsD for approval as required under the provisions of the Buildings Ordinance.

District Officer's Comments

10.1.12 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) Director of Electrical and Mechanical Services (DEMS);
- (d) Antiquities and Monuments Office (AMO);
- (e) Director of Leisure and Cultural Services (DLCS); and
- (f) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 1.11.2019, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period, which ended on 22.11.2019, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed filling of pond for one permitted NTEH (Small House) at the Site. The proposed filling of pond involves area of about 32.3m². The proposed maximum depth of filling is 1.01m, which will raise the lowest site level from 3.19 to 4.2mPD to facilitate the construction of one Small House, which is under processing by LandsD.
- 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 filling of pond requires planning permission from the Board. The proposed pond filling to facilitate the permitted Small House development 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 applicant states that the pond 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 grant.

- 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 requirement. 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 application is 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, 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. DEP comments that to prevent polluting adjacent waterbodies, the proposed filling of pond should adopt appropriate water pollution preventive practices set out in ProPECC PN 1/94 and the Recommended Pollution Control Clauses for Construction Contracts. CTP/UD&L, PlanD 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 8 similar approved applications (No. A/YL-PS/464, 474, 476, 480, 481, 574, 596 and 597) for land or pond filling for NTEHs in its vicinity within the same “V” zone. The pond or land filling formation levels of these applications are about 4.3mPD which are similar to the proposed site formation level of about 4.2mPD under the subject application. Approval of the application is in line with the previous decisions of the Committee.
- 12.7 There is no public comment received on the application during the statutory publication period.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 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 13.12.2023, 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 enter 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 III**.

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

the applicant fails to demonstrate that the proposed development would not cause adverse ecological impact 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 applicant.

15. Attachments

Appendix I	Application Form with attachments received on 23.10.2019
Appendix Ia	Supplementary Planning Statements
Appendix II	Similar Applications
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan of Lot 178 S.A ss.4 S.B in D.D. 123
Drawing A-2	Section Plan of Pond Filling
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2019**