

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-MP/271**

<b><u>Applicant</u></b>	: Mr. WONG Kwok Keung represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lots 1864 S.A and 1865 S.A in D.D. 105, Mai Po San Tsuen, Yuen Long
<b><u>Site Area</u></b>	: About 163 m <sup>2</sup>
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	: Proposed Land Filling (1.3m) for Permitted New Territories Exempted House - Small House

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed land filling (1.3m) for permitted New Territories Exempted House (NTEH) - Small House (SH) on the application site (the Site) (**Plan A-1**). According to the Notes for “V” zone on the OZP, “House (NTEH only)” is a Column 1 use which is always permitted. However, the Notes also stipulate that on land zoned “V”, any filling of land/pond or excavation of land necessary to effect a change of use to those always permitted under Column 1 requires planning permission. Hence, the proposed filling of land requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently vacant and covered by shrubs and grass. The Site covers a small portion of a previous application No. A/DPA/YL-MP/31 for residential development which was rejected by the Rural and New Town Planning Committee (the Committee) on 15.7.1994.
- 1.3 According to the applicant, the proposed land filling is to facilitate the development of a NTEH (SH) on the Site. The Site is currently at about +2.3 to 2.4mPD and covered by vegetation. The applicant proposes to remove the

covering vegetation and fill the Site with granular soil to a level same as the adjacent lots at about +3.6mPD (**Drawings A-2**).

1.4 The Site is accessible from a local track leading from Mai Po Road (**Plan A-1** and **Drawing A-1**). The site formation section plan and drainage proposal submitted are at **Drawings A-2 to A-3**.

1.5 In support of the application, the applicant has submitted:

- (a) Application Form received on 3.4.2018 **(Appendix I)**
- (b) Further Information (FI) received on 24.5.2018 clarifying the existing ground level of the Site **(Appendix Ia)**
- (c) FI received on 28.5.2018 clarifying the proposed use **(Appendix Ib)**

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Appendix I of the application form at **Appendix I**. They can be summarized as follows:

- (a) The proposed land filling is to facilitate the development of a NTEH.
- (b) The Site is located within a “V” zone on the OZP, according to the Notes of the “V” zone, any filling of land shall not be undertaken without the permission from the Board under section 16 of the Town Planning Ordinance.
- (c) The Site is covered by vegetation. The proposed filling of land will be undertaken by removing the covering vegetation and filling the Site with granular soil to a level same as the adjacent lots and access road at about +3.6mPD. The proposed filling of land will not have adverse impacts on the surrounding environment.
- (d) The Site is accessible via a local track off Mai Po Road.

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

The applicant is not a “current land owner” but has 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 posting site notice and sending notice to San Tin Rural Committee by registered post. 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)***

According to 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), 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, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA. Development of NTEH is also exempted.

#### 5. **Background**

The Site is not subject to any active enforcement action.

#### 6. **Previous Application**

The Site covers a small portion of a previous Application No. A/DPA/YL-MP/31 (**Plan A-1**) submitted by a different applicant for residential development, which was rejected by the Committee on 15.7.1994 mainly on the consideration that the development was not in line with the planning intention for the area, did not comply with the Board’s Guidelines on Application for Developments within Deep Bay Buffer Zone, there was no sufficient information in the submission to demonstrate that the proposed developments would have insignificant impacts on the environment, ecology, traffic, sewerage and drainage in the area, was not in line with the low-density residential development in the area, approval of the development would set an undesirable precedent and the feasibility of the proposed funding/management arrangement for maintaining the proposed off-site habitat creation area was uncertain. Details of the application are summarized at **Appendix II**.

#### 7. **Similar Applications**

- 7.1 There are two similar applications (Nos. A/YL-MP/262 and 263) for proposed land filling for permitted NTEH within the same “V” zone on the OZP. Both applications were approved by the Committee on 25.8.2017 mainly on the consideration that the developments were in line with the planning intention of the “V” zone, compatible with the rural character of the

surrounding areas and concerned departments had no adverse comment on / no objection to the application.

7.2 Details of these applications are summarized at **Appendix III**. 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) located near Mai Po San Tsuen and Mai Po Lo Wai of San Tin Heung;
- (b) accessible from a local track at the southwest connecting with Mai Po Road;
- (c) currently vacant and covered by shrubs and grass; and
- (d) located within the WBA of Deep Bay.

8.2 The Site is located in a village settlement and the surrounding areas have the following characteristics:

- (a) to the north are grassland, cultivated land and a pond;
- (b) to the east are unused land, cultivated land and residential dwellings of Mai Po San Tsuen;
- (c) to the south are vehicle parks, residential dwellings, storage areas and unused land; to the west are cultivated land, open storages of vehicles (including container vehicle) and construction materials, and parking of vehicles (including container vehicle). Some storage yards and vehicle parks are suspected unauthorised developments subject to enforcement action by the Planning Authority.

## **9. Planning Intention**

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning 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. 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 summarized as follows:

### **Land Administration**

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

- (a) The Site comprises Old Schedule agricultural lots held under the Block Government Lease.
- (b) According to his record, there is a SH application approved within the Site subject to, among other things, the following conditions:
  - (i) The applicant would be required to obtain permission from the Board under section 16 of the Town Planning Ordinance (TPO) for the necessary land filling works prior to the execution of the licence document; and
  - (ii) Certificate of Compliance will not be issued before the fulfilment and compliance with all the approval conditions stipulated in the permission from the Board under section 16 of the TPO.
- (c) There are 3 SH applications under processing and 12 approved SH applications in the vicinity (i.e. 30m from the Site).

### **Traffic**

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

He has no objection to the application from traffic engineering point of view, as there is no provision of parking space at the Site and the traffic impact is minimal.

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

- (a) The proposed access arrangement of the Site from Mai Po Road should be commented by TD; and
- (b) HyD does not and will not maintain any access connecting the Site and Mai Po Road. Presumably, the relevant departments will provide their comments, if any.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazette railway schemes, nor railway protection boundary of heavy rail systems. As such, he has no comments on the application from railway development viewpoint.

**Environment**

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

- (a) The applicant is seeking permission of land filling (1.3m) for permitted NTEH at a site (163m<sup>2</sup>) in a “V” zone in Mai Po San Tsuen. In view of the small scale of proposed filling works, he has no objection to the application.
- (b) Nevertheless, should a NTEH be built after the filling works, the land owner is advised 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 the Environmental Protection Department” and are duly certified by an Authorized Person.

**Nature Conservation**

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

He has no adverse comment on the application from nature conservation point of view as the Site is covered by common shrubs and grass and at certain distance from WCA.

**Landscaping**

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

- (a) The Site falls within an area zoned “V” in Yuen Long. The Site was involved in a previous application (No. A/DPA/YL-MP/31) for residential development to which he objected from landscape planning perspective.
- (b) The surrounding is of rural landscape character comprising village houses, fish ponds, sporadic temporary structures and tree groups. Sites for 2 previous approved applications (Nos. A/YL-MP/262 and 263) for similar land filling are to the immediate east of the Site. The proposed land filling for

NTEH is considered not incompatible with existing landscape setting.

- (c) According to the site inspection taken on 13 April 2018, the Site is situated on an abandoned wet area for agricultural use. Abandoned crops (*Ipomoea aquarica* 蕹菜) and wild wetland plant (*Phragmites communis* 蘆草), which can be easily found in local environment, are observed in the concerned area. In view that the wet area is previously used for agricultural use without high conservation value, he has no objection to the application from landscape planning perspective.
- (d) Considering the case involves proposed land filling for NTEH within “V” zone and adverse landscape implication is not anticipated, should the application be approved by the Board, landscape condition for the application is not recommended.

### **Drainage**

#### 10.1.8 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 operation and maintenance point of view.
- (b) The drainage proposal attached to the application is considered unacceptable. The drainage submission should demonstrate how the applicant will collect, convey and discharge rain water falling onto or flowing to his site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover & invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations should be included. (Guideline on preparation of the drainage proposal is available in DSD homepage at [https://www.dsd.gov.hk/EN/Files/Technical Manual/dsd\\_guideline/Drainage\\_Submission.pdf](https://www.dsd.gov.hk/EN/Files/Technical Manual/dsd_guideline/Drainage_Submission.pdf)). Should additional drainage works be required, the applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on site.
- (c) After completion of the required drainage works, the applicant shall provide a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for DSD’s reference. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (d) The applicant shall ascertain that all existing flow paths

would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.

- (e) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (f) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (g) The applicant should consult DLO/YL regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the Site in future.
- (h) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proposer maintenance during occupancy of the Site.

### **Fire Safety**

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

- (a) He has no specific comment on the captioned application.
- (b) The applicant is advised to observe “New Territories Exempted Houses - A Guide to Fire Safety Requirements” published by LandsD.

### **Building Matters**

#### 10.1.10 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 Building Ordinance (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 Buildings Ordinance. In the circumstance, an Authorized Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL, LandsD or seek AP’s advice for details.



**Others**

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

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Re-provisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the re-provisioned facilities to FEHD.
- (b) If provision of cleansing service for new roads, streets, cycle tracks, footpaths, paved areas etc, is required, FEHD should be separately consulted. Prior consent from FEHD must be obtained and sufficient amount of recurrent cost must be provided to him.
- (c) Proper licence / permit issued by his Department is required if there is any food business / catering service / activities regulated by him under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (d) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

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

He has no particular comment on the application from electricity supply safety aspect. 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 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.

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

- (a) His Office has no in-principle geotechnical objection to the application.
- (b) It is noted that land filling of 1.3m is proposed in the application. The applicant should be reminded that no fill slopes with height greater than 1.3m or steeper than 15 degrees shall be formed unless a geotechnical assessment for the slope / retaining wall stability study prepared by a qualified geotechnical engineer is approved. Also no other types of earth retaining structures shall be formed.
- (c) The applicant's attention is drawn to the fact that footings of NTEH should be designed and constructed in accordance with Section C (Technical Requirements for Critical Structural Elements in the construction of NTEH) of the pamphlet "Building New Territories Exempted Houses" (December 2014, LandsD).

#### **District Officer's Comments**

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

His office has no comment on the application and the local comments should be submitted to the Board directly, if any.

10.2 The following government departments have no objection to or no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

#### **11. Public Comments Received During Statutory Publication Period**

On 10.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 2.5.2018, no public comment was received.

#### **12. Planning Considerations and Assessments**

12.1 The Site falls within "V" zone which is primarily 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. NTEH (SH) development at

the Site is always permitted within the “V” zone. According to DLO/YL of LandsD’s record, there is an approved SH application within the Site, subject to planning permission for necessary land filling works and compliance with approval conditions stipulated in the permission. According to the applicant, the proposed land filling involves only 1.3m in depth and is to facilitate the construction of a NTEH (SH). It is compatible with the rural character of the area which is predominated by residential structures/village houses, vacant land and ponds.

- 12.2 Filling of land within the “V” zone requires planning permission primarily to ensure that it would not result in adverse drainage impact. In addition, other consequent impacts arising from land filling, such as ecological and landscape impacts, should also be taken into account in assessing the land filling proposal. On drainage impact, the applicant has submitted a proposed drainage plan and CE/MN of DSD has no objection to the proposed land filling from drainage operation and maintenance point of view. He advised that a drainage plan showing full details of the existing drains and the proposed drains with supporting design calculations should be submitted for his consideration. His technical concerns could be addressed by imposition of approval conditions in paragraph 13.2 below requiring submission and implementation of drainage proposal. CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as adverse landscape implication is not anticipated. Considering the nature, scale and extent of the proposed land filling, significant adverse impacts on the surroundings are not anticipated. Other relevant departments including H(GEO) of CEDD, DEP, DAFC and C for T have no adverse comment on / no objection to the application.
- 12.3 The Site falls within the WBA of the TPB PG-No. 12C. DAFC has no comment on the application from nature conservation point of view considering that the Site is covered by common shrubs and grass, and is located at certain distance from WCA.
- 12.4 There is no public comment received during the statutory publication period.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12, 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 1.6.2022, 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 a 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;

- (b) in relation to (a) above, the implementation of drainage proposal upon completion of the land filling works 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 attached at **Appendix IV**.

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

There is insufficient information in the submission to demonstrate that the development would not generate adverse drainage impact on the Site and 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 conditions and advisory clauses, 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 reasons for rejection should be given to the applicant.

**15. Attachments**

<b>Appendix I</b>	Application form received on 3.4.2018
<b>Appendix Ia</b>	Further Information received on 24.5.2018
<b>Appendix Ib</b>	Further Information received on 28.5.2018
<b>Appendix II</b>	Previous s.16 application covering the application site
<b>Appendix III</b>	Similar applications within the "V" zone
<b>Appendix IV</b>	Recommended Advisory Clauses

<b>Drawing A-1</b>	Location Plan with similar applications
<b>Drawing A-2</b>	Site Formation Section Plan
<b>Drawing A-3</b>	Drainage Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2018**