

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

**APPLICATION NO. A/YL-LFS/472**

- Applicant** : Mr. Tang Chuk Ming represented by Mr. Lee Wai Leung
- Site** : Lot 1394 S.A in D.D. 129, Mong Tseng Wai, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 309m<sup>2</sup>
- 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/11
- Zoning** : “Village Type Development” (“V”)
- Application** : Proposed Filling of Land for Permitted Agricultural Use

**1. The Proposal**

- 1.1 The applicants seek planning permission for proposed filling of land for permitted agricultural use at the application site (the Site) zoned “V” on the OZP (**Plan A-1**). According to the Notes for the “V” zone of the OZP, ‘Agricultural Use’ is always permitted, but filling of land requires planning permission from the Town Planning Board (the Board). The Site also falls within the Wetland Buffer Area (WBA) according to the Town Planning Board Guidelines No. 12C for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C). The Site is currently overgrown with vegetation (**Plans A-2, A-4a to A-4c**).
- 1.2 As shown on the proposed land filling plan at **Drawing A-1** and indicated in the submission, the entire Site (about 309m<sup>2</sup>) would be filled with cultivation soil of about 0.6m in depth. As a result of the proposed land filling works, the formation level of the Site would be raised from +3.3mPD to +3.9mPD. No ecological impact assessment (EcoIA) is submitted in support of the proposed filling of land.
- 1.3 As indicated in the submission, upon the completion of the land filling works, the Site would be used for cultivation of grass, such as broadleaf carpetgrass and sportsfield grass, as well as permitted agricultural use in general.

- 1.4 As shown on **Drawing A-1**, the construction vehicles are proposed to access the Site from the north via a local track branching off Deep Bay Road<sup>1</sup>. There would be about six construction vehicles (i.e. 5.3 tonnes light goods vehicles) trips generated per day during the construction period<sup>2</sup>.
- 1.5 The Site is the subject of a previous application (No. A/YL-LFS/271) for the same development proposal lodged by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 13.3.2015 (details at paragraph 6 below). Nevertheless, the land filling works had not been implemented, and the planning permission lapsed on 14.3.2019.
- 1.6 In support of the application, the applicants have submitted the following documents:
- (a) Application Form received on 24.5.2023 **(Appendix I)**
  - (b) Further Information (FI) received on 9.6.2023\* **(Appendix Ia)**

*\* accepted and exempted from publication requirements*

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

The justifications put forth by the applicant in support of the application are detailed in the Application Form and the FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) the Site is situated in a low-lying area where crops could not be grown due to inundation. Filling of land is therefore required for cultivation;
- (b) the proposed land filling works would not affect the surroundings; and
- (c) the proposed land filling works at the Site was subject to a previous planning permission (No. A/YL-LFS/271) in 2015. The proposal was not implemented due to coordination issue but is now ready to proceed.

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

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

## **4. Town Planning Board Guidelines**

According to TPB PG-No. 12C, the Site falls within the WBA. The relevant assessment criteria are detailed at **Appendix II** and 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

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<sup>1</sup> As shown on **Plan A-3a** and Photos 1 and 2 of **Plan A-4a and A-4b**, part of the proposed construction vehicle access is currently overgrown with vegetation. However, the applicant has not applied for filling of land thereat.

<sup>2</sup> As indicated in the submission, no construction vehicle trip would be generated on Saturdays and Sundays. The land filling works is expected to be completed on 15.10.2023.

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 EcoIA would also need to be submitted. Development/redevelopment which may have negative impacts on the ecological value of the WCA would not be supported by the Board, unless the EcoIA can demonstrate that the negative impacts could be mitigated through positive measures. The assessment study should also demonstrate that the development will not cause net increase in pollution load to Deep Bay. Some local and minor uses are however exempted from the requirement of EcoIA.

## **5. Background**

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

## **6. Previous Application**

- 6.1 The Site is the subject of a previous application (No. A/YL-LFS/271) for proposed filling of land (by about 0.6m) for permitted agricultural use, which was approved by the Committee on 13.3.2015 mainly on considerations that the proposed land filling to facilitate always-permitted agricultural use is not incompatible with the planning intention; there was no objection to/no adverse comment on the application from concerned government departments including the Director of Agriculture, Fisheries and Conservation (DAFC) and the Chief Engineer/Mainland North of the Drainage Services Department; and the technical concerns could be addressed by approval conditions. In particular, while DAFC considered that the proposed land filling was not necessary for farming purpose and thereby could not be regarded as a supporting activity to agricultural use, DAFC noted that the vicinity of the Site was involved in an unauthorized land filling works subject to planning enforcement action<sup>3</sup>, and considered that the Site was fragmented from the fish ponds/wetland in the WCA by the said unauthorized works and therefore had limited ecological value (**Plan A-3b**).
- 6.2 Details of the previous application are summarised in **Appendix III** and its location is shown on **Plan A-1**.

## **7. Similar Applications**

- 7.1 Within/straddling the same “V” zone, there are five similar applications for filling of land (with or without filling of pond) for agricultural use or New Territories Exempted Houses (NTEH) development. Four of them were approved whilst one was rejected by the Committee. Details of the similar applications are summarised

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<sup>3</sup> The concerned lots where the unauthorized land filling (UD) was undertaken were Lots 1390 S.A RP, 1397 RP, 1398 S.A, 1398 S.C, 1398 S.D, 1398 S.F, 1398 S.G, 1398 S.I, 1398 S.J, 1398 S.L and 1398 RP in D.D.129 (Enforcement Case No. E/YL-LFS/359) (**Plan A-2**). Enforcement Notice (EN) requiring the discontinuance of the UD and Reinstatement Notice (RN) requiring the reinstatement of the concerned lots (i.e. removal of leftovers, debris and fill materials, as well as grassing) were issued in October 2014 and January 2015 respectively. As the concerned lots were subsequently reinstated, Compliance Notices for the EN and RN were issued in September 2015.

at **Appendix III** and their locations are shown on **Plan A-1**.

*Approved applications*

- 7.2 Application No. A/YL-LFS/270 for proposed filling of land for permitted agricultural use to the west of the Site was approved with conditions by the Committee on 13.3.2015 mainly on similar considerations that as mentioned in paragraph 6.1 above. Meanwhile, DAFC considered that the proposed land filling was for ground levelling purpose, and thereby could not be regarded as a supporting activity to agricultural use.
- 7.3 Applications No. A/YL-LFS/371 for proposed filling and excavation of land for permitted NTEH at the north of the “V” zone was approved with conditions by the Committee in 2020 mainly on considerations of no adverse comments from concerned government departments; not in contravention with TPB PG-No. 12C; and the technical concerns could be addressed by approval conditions.
- 7.4 Applications No. A/YL-LFS/387 and 413 for proposed NTEH and filling and excavation of land straddling the northern part of “V” zone and the “Green Belt” zone to the north were approved with conditions by the Committee in 2021 mainly on considerations of being generally in line with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories and TPB PG-No. 10 on ‘Application for Development within the Green Belt Zone’; concerned government departments generally have no objection to/adverse comment on the application; and the technical concerns could be addressed by approval conditions.

*Rejected application*

- 7.5 Application No. A/YL-LFS/463 for proposed filling of pond and filling of land for permitted houses (NTEH - Small Houses) was rejected by the Committee on 5.5.2023 mainly on grounds of being not in line with TPB PG-No. 12C (viz. no EcoIA to demonstrate no net-loss in wetland and negative off-site indirect impact on the ecological value of the WCA); and failure to demonstrate no adverse drainage impact.

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

8.1 The Site is:

- (a) currently overgrown with vegetation; and
- (b) inaccessible as the immediate vicinity of the Site is also overgrown with vegetation. The nearest vehicular access to the northeast (at about 30m) is accessible from a local track branching off Deep Bay Road (**Plans A-2 and A-3a**).

- 8.2 The surrounding areas of the Site have the following characteristics. Some of the uses are suspected unauthorized developments (UDs) subject to planning enforcement action:

- (a) to the north of the Site are village houses, cultivated and fallow agricultural land, a car park and grassland. To the further north across a local track are village houses, a temple, a shrine, a car park covered by valid planning permission under application No. A/YL-LFS/367 and fallow agricultural land;
- (b) to the east are village houses/residential dwelling and fallow agricultural land;
- (c) to the south are fallow agricultural land and a stream (at about 20m). To the further south across the stream are ponds falling within the “Conservation Area” (“CA”) zone on the OZP and the WCA (at about 30m); and
- (d) to the west are village houses and fallow agricultural land.

## **9. Planning Intention**

- 9.1 The planning intention of the “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 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.
- 9.2 As filling of land/pond and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment, permission from the Board is required for such activities.

## **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, LandsD (DLO/YL, LandsD):
  - (a) He has no objection to the proposed filling of land from lease perspective.
  - (b) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. It is noted that no structure is proposed at the Site, and the proposed filling of land is for permitted agricultural use.
  - (c) A Small House application on Lot 1394 S.A in D.D.129 (i.e. the Site) is under processing.

## **Nature Conservation and Agriculture**

### 10.1.2 Comments of DAFC:

#### Nature Conservation

- (a) The Site is an abandoned field, with some water-logged areas mainly at the northwest part and dry field at a higher ground level for the rest of the Site. The site was overgrown with common vegetation.
- (b) The Site is close to the fish ponds/wetland within the WCA (at about 30m) and the “CA” zone to the south with thick vegetation on dry field in between. No EcoIA or other information has been submitted to demonstrate that the proposed filling of land would not cause negative impacts on the ecological value of the WCA.

#### Agriculture

- (c) Local farmers may occasionally carry out replenishment of lost top soil or levelling of ground to prevent excessive surface run-off. The thickness of replenished soil or the amount of earth that need to be redistribute in ground levelling is dependent on many factors such as topography of the land and the extent of erosion. Generally speaking, the amount of top soil needed for vegetable farming is about 30-45 cm.
- (d) Nevertheless, the Site is covered with dense vegetation. He cannot identify any major physical factors that may affect the suitability of the soil at the Site for cultivation in general.

## **Landscaping**

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

- (a) The Site is situated in area of rural landscape predominated by village houses, ponds, marshland and woodland. The Site is covered with dense vegetation in a wet environment and water resource is found within the Site.
- (b) The applicant stated in the submission that the proposed filling of land for the cultivation of grass and/or for the agricultural uses. Significant landscape impact on the existing wetland species/vegetation and water resource within the Site arising from the proposed filling of land is envisaged. However, no information is provided in the submission to demonstrate that the proposed filling of land would not have adverse landscape impact on the Site and its surrounding areas.
- (c) As there is a large area of the existing ponds within the “CA” zone just to the south, she has grave concern on the proposed filling of land which would further degrade the landscape resources and quality of the WBA and the adjacent “CA” zone. As such, the proposed filling

of land is considered incompatible with the surrounding areas.

### **Drainage**

#### 10.1.4 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, an approval condition should be stipulated requiring the applicant to submit a drainage proposal, implement and maintain the proposed drainage facilities to the satisfaction of his department.
- (c) The Site is not subject to any record of flooding. Based on his preliminary assessment, it is believed that there would be overland flow from the north passing through the Site. However, the existing land characteristics of the Site and its vicinity are generally grassland/vegetated land, where infiltration or rainfall absorption by soil is expected. Besides, the stream to the south of the Site may well be the discharge path conveying the surface runoff (generated by saturation of soil due to heavy rainstorm event) from upland catchment.
- (d) Impact to overland flow from the adjacent area after the proposed land filling works is envisaged. The applicant is requested to provide topographic survey of existing ground level in the vicinity, as well as a cross-sectional drawing to demonstrate the proposed land filling works in the drainage proposal. Any alteration of existing drainage system shall also be indicated.

### **Environment**

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

- (a) He has no adverse comment on the proposed filling of land.
- (b) There is no substantiated environmental complaint pertaining the Site in the past three years.
- (c) The applicant should note his advisory comments in **Appendix VI**.

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

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

He has consulted the locals regarding the application. Seven local comments from villagers of Mong Tseng Wai and Mong Tseng Tsuen in

the form of standard letters (Sample at **Appendix IV**) were received objecting to the application mainly on grounds that the proposed filling of land would impede storm water discharge and bring serious flooding problem to the villages, and would adversely affect the roosting ground of birds and the natural environment in general.

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

- (a) Antiquities and Monuments Office, Development Bureau;
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (e) Head of Geotechnical Engineering Office, CEDD (H(GEO)), CEDD;
- (f) Project Manager (West), CEDD (PM(W), CEDD);
- (g) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (h) Commissioner for Transport (C for T);
- (i) Commissioner of Police (C of P); and
- (j) Director of Fire Services (D of FS).

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

On 6.6.2023, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals (**Appendices V-1 and V-2**) were received objecting to the applications mainly on the following grounds:

- (a) the wetland in Yuen Long, which is home to many migratory birds and other wetland species, has been subject to severe development pressure. The Site is located in the midst of a pristine WBA rare in Hong Kong. There is currently no access road to the Site;
- (b) it is not clear as to why cultivation at the Site requires filling of land; and
- (c) the access road connecting the Site is a single two-way carriageway which has already been congested. Transporting of produce from the Site would exacerbate the traffic problem.

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

12.1 The application is for proposed filling of land (cultivation soil of about 0.6m in depth) for permitted agricultural use at the Site within the “V” zone (**Plan A-1**). Whilst ‘Agricultural Use’ is always permitted within the “V” zone, filling of land within the “V” zone is subject to planning permission as it may cause adverse drainage impacts on the adjacent area and adverse impacts on the environment (including the ecology). In this regard, CE/MN of DSD has no objection in principle to the application from drainage point of view.



- 12.2 Regarding the ecological aspect, the Site falls within the WBA under TPB PG-No. 12C, and is located at about 30m to the north of the fish ponds within the WCA and the “CA” zone of the OZP. According to 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. Development/redevelopment which may have negative impacts on the ecological value of the WCA would not be supported by the Board, unless an EcoIA is submitted to demonstrate that the negative impacts could be mitigated through positive measures. In these regards, DAFC considers that the Site is close to the fish ponds/wetland within the WCA and the “CA” zone to the south with thick vegetation on dry field in between. However, no EcoIA or other information has been submitted to demonstrate that the proposed filling of land would not cause negative impacts on the ecological value of the WCA.
- 12.3 In view of the above, the applicant fails to demonstrate that the proposed filling of land would not have adverse ecological impact on the surrounding areas. Also, the proposed filling of land is considered not in line with TPB PG-No. 12C.
- 12.4 According to the applicant, the Site would be used for cultivation of grass, as well as permitted agricultural use in general. In support of his proposal, the applicant claims that the Site is inundated and crops could not be grown thereon. In this regard, CE/MN of DSD advises that the Site is not subject to any record of flooding. Moreover, based on his preliminary observation, overland flow from upland catchment to the north would be absorbed by the soil on-site. Even in the event of heavy rainfall, surface run-off generated by saturation of soil would also be conveyed by the stream to the south of the Site. Meanwhile, DAFC advises that the Site is mainly dry field and currently covered by dense vegetation. He cannot identify any major physical factors that may affect the suitability of the soil at the Site for cultivation. As such, there is insufficient information in the submission to justify that the proposed land filling is necessary for the permitted agricultural use.
- 12.5 CTP/UD&L of PlanD considers that significant landscape impact on the existing wetland species/vegetation and water resource within the Site arising from the proposed filling of land is envisaged. Moreover, as there is a large area of existing ponds within the “CA” zone just to the south, she has grave concern on the proposed filling of land which would further degrade the landscape resources and quality of the WBA and the adjacent “CA” zone. However, no information is provided in the submission to demonstrate that the proposed filling of land would not have adverse landscape impact on the Site and its surrounding areas. Hence, the applicant fails to demonstrate that the proposed land filling would not have significant adverse landscape impact on the surrounding areas.
- 12.6 Other concerned departments including DEP and C for T have no objection to or no adverse comment on the application from environmental planning and traffic perspectives.
- 12.7 The Site is the subject of a previous application (No. A/YL-LFS/271) for the same development proposal as the current application, which was approved with conditions by the Committee in 2015. The Committee has also approved four similar applications involving filling of land within the subject “V” zone between 2020 and 2021. It should however be noted that three of the similar applications (No. A/YL-LFS/371, 387 and 413) are located at the northern fringe of the subject “V” zone

away from the WCA, and relevant departments had no objection to/no adverse comment on these applications. As for the previous and the other similar applications (No. A/YL-LFS/271 and 270 respectively) at or in the vicinity of the Site, they were approved mainly on considerations that the sites were fragmented from the fish ponds/wetland in the WCA by the unauthorized land filling works at that material time and hence had limited ecological value (**Plan A-3b**). Nevertheless, for the current application, DAFC advised that with the reinstatement of the unauthorized land filling works (**Plan A-3a**), thick vegetation has grown between the Site and the fish ponds/wetland in the WCA. However, no EcoIA or other information has been submitted to demonstrate that the proposed filling of land would not cause negative impacts on the ecological value of the WCA. In view of the change in planning and ecological circumstances of the Site, rejecting the current application is not in conflict with the previous decisions of the Committee.

- 12.8 Regarding the local views conveyed by DO/YL of HAD and the public comments received objecting to the application as summarised in paragraphs 10.1.6 and 11 respectively, the planning considerations and assessments in paragraphs 12.1 to 12.7 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 local views and public comments mentioned in paragraphs 10.1.6 and 11 respectively, the Planning Department does not support the application for the following reasons:

- (a) the proposed filling of land, which falls within the Wetland Buffer Area, is not in line with 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) in that there is no ecological impact assessment in the submission to demonstrate that the proposed filling of land would not have negative off-site disturbance impact on the ecological value of the Wetland Conservation Area; and
- (b) the applicant fails to justify the need for the proposed filling of land, and to demonstrate that the proposed filling of land would not have adverse landscape impact on the surrounding areas.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **14.7.2027**, 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 waste, including construction waste, as defined in the Waste Disposal Ordinance, is allowed to be used to fill the Site;

- (b) the submission of an ecological impact assessment for the proposed filling of land, and implementation of the ecological mitigation measures identified therein before commencement of the proposed filling of land to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (c) the submission of a drainage proposal before commencement of the proposed filling of land to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) in relation to (c) above, the implementation of the drainage proposal upon completion of the proposed filling of land to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (e) if any of the above planning condition (a), (b), (c) or (d) 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 VI**.

### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant planning permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

### **15. Attachments**

<b>Appendix I</b>	Application Form received on 24.5.2023
<b>Appendix Ia</b>	FI received on 9.6.2023
<b>Appendix II</b>	Extracts of Town Planning Board Guidelines for Application for Development within Deep Bay Area (TPB PG-No. 12C)
<b>Appendix III</b>	Previous and Similar Applications
<b>Appendix IV</b>	Sample of Local Views conveyed by District Officer/Yuen Long
<b>Appendices V-1 and V-2</b>	Public Comments Received During Statutory Publication Period
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Land Filling Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plans A-3a and A-3b</b>	Aerial Photos in 2022 and 2015

**Plans A-4a to A-4c**      Site Photos

**PLANNING DEPARTMENT  
JULY 2023**