

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/310

<u>Applicant</u>	: Top Grow (HK) Development Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 3540 S.B ss.1, 3540 S.B ss.2, 3540 S.B ss.3, 3540 S.B ss.4, 3540 S.B ss.5, 3540 S.B ss.6, 3540 S.B RP (Part), 3559 S.A, 3559 S.B and 3559 RP in D.D. 104, Pok Wai, Yuen Long, New Territories
<u>Site Area</u>	: About 1,131 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
<u>Zoning</u>	: “Village Type Development” (“V”) [restricted to a maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Filling of Land for Permitted Houses (New Territories Exempted Houses)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed filling of land for permitted houses (New Territories Exempted Houses (NTEHs)) at the application site (the Site) (**Plan A-1**). According to the Notes of “V” zone of the OZP, ‘House (NTEH only)’ is a Column 1 use which is always permitted while filling of land requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and partly covered with vegetation.
- 1.2 The Site is accessible to Castle Peak Road (Tam Mi) via a local access, with the entrance being located at the east of the Site (**Plan A-2**). According to the proposal, the whole site will be filled with concrete of not more than 0.9m in depth, forming a new site level of +4.4mPD to facilitate the development of eight NTEHs. The proposed filling works are anticipated to be completed by January 2024. The layout plan and section plan are at **Drawings A-1 to A-2**.

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

- (a) Application Form received on 9.3.2023 (Appendix I)
- (b) Further Information (FI) received on 28.4.2023[#] (Appendix Ia)

[#] *exempted from publication requirement*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**. They are summarised as follows:

- (a) The Site falls within “V” zone on the OZP and development of NTEHs is always permitted. The proposed filling of land for development of NTEHs is considered in line with the planning intention of the “V” zone.
- (b) The Site is slopping from the north to the south with approximate site level of +4.4mPD to +3.5mPD. Site formation works involving filling of land are required to create a flat surface for development of NTEHs.
- (c) Given the scale and nature of the proposal, adverse traffic impacts are not anticipated. The applicant will follow the relevant government code of practices to minimise possible environmental impacts.

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

The applicant is not a “current land owner” of the Site 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. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

According to the Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C), a minor portion (about 7.7%) of the Site falls within the Wetland Buffer Area (WBA). The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

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

6. Previous Application

The Site is the subject of a previous application (No. A/YL-NSW/57) for temporary open storage of vehicles for sale and machineries for 12 months which was rejected by the Committee on 26.3.1999 mainly on the considerations that the proposed development was not in line with the planning intention of the “V” zone; the proposed development was not compatible with the land uses of the surrounding areas; the development did not comply with the Town Planning Board Guidelines for "Application for Developments within Deep Bay Buffer Zones"; and the approval of the application would set an undesirable precedent for other similar applications. Details of the application is summarised at **Appendix III**. Its location is shown on **Plan A-1**.

7. Similar Application

There is no similar application within the same “V” zone on the OZP.

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

8.1 The Site is:

- (a) mainly vacant and covered with vegetation in the southern part;
- (b) accessible from Castle Peak Road – Tam Mi; and
- (c) with a small part within the WBA under the TPB PG-No. 12C.

8.2 The surrounding areas have the following characteristics:

- (a) to its north and northeast are vacant land and grassland, and to its further northeast is open storage yard of vehicles;
- (b) to its west is a site for proposed public vehicle park (excluding container vehicle) and associated filling and excavation of land with valid planning permission (No. A/YL-NSW/305), and to its further northwest across Kam Pok Road East are open storage of construction materials and sites under construction;
- (c) to its southwest are a pond and grassland; and
- (d) to its southeast are Merry Garden and some residential dwellings.

9. Planning Intention

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 (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 Town Planning Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments and bureau 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 application.
- (b) According to his records, 8 Small House (SH) applications in respect of Lot Nos. 3540 S.B ss.1, 3540 S.B ss.2, 3540 S.B ss.3, 3540 S.B ss.4, 3540 S.B ss.5, 3540 S.B ss.6, 3559 S.A and 3559 S.B all in D.D. 104 within the Site have been received.
- (c) His advisory comments as detailed in **Appendix IV**.

Traffic

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

- (a) She has no objection to the application.
- (b) Her advisory comments as detailed in **Appendix IV**.

Environment

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

- (a) She has no objection to the application from environmental planning perspective.
- (b) The applicant is advised to follow the Recommended Pollution Control Clauses for Construction Contracts to minimize the environmental impacts during construction stage.
- (c) It is the applicant's responsibility to comply with all relevant environmental legislations during construction of the project.

- (d) There was no substantiated environmental complaint received at the Site in the past three years.

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 proposed development from the public drainage point of view.
- (b) Should the application be approved, conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal and (ii) to implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or the Town Planning Board.

Fire Services

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

- (a) He has no objection in principle to the proposal at this stage provided that the Site does not encroach upon any existing Emergency Vehicular Access (EVA), or planned EVA under application in accordance with LandsD record.
- (b) His advisory comments as detailed in **Appendix IV**.

Nature Conservation

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

He has no comment on the application.

Water Supply

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

- (a) He has no objection to the application.
- (b) His advisory comments as detailed in **Appendix IV**.

Local Views

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

His office has no comment and has not received any comments from the

local on the application.

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

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Chief Highway Engineer/New Territories West, Highways Department;
- (c) Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department;
- (d) Project Manager (West), Civil Engineering and Development Department;
- (e) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (f) Director of Electrical and Mechanical Services; and
- (g) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 24.3.2023, the application was published for public comments. During the first three weeks of the statutory publication period, one comment was received from The Conservancy Association (**Appendix V**) objecting to the application on the grounds that the proposed use is not in line with the planning intention of WBA as there is no information that the proposed filling of land for permitted houses would not have negative off-site disturbance impact on the ecological value of the surrounding fish ponds and wetland; and the Site is subject to land formation and vegetation clearance prior to the planning application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed filling of land for permitted houses (NTEHs) at the Site within the “V” zone. The planning intention of “V” zone is primarily intended for development of SHs by indigenous villagers and development of NTEH is always permitted within the “V” zone, while filling of land within “V” zone is subject to planning permission as it may cause adverse drainage impacts on the adjacent areas. According to the applicant, the proposed filling of land of not more than 0.9m is to facilitate the development of eight NTEHs within the “V” zone. It is noted that a total of eight SH applications were being processed by DLO/YL, LandsD at the Site.
- 12.2 The proposed filling of land of not more than 0.9m can provide a flat surface of about +4.4mPD for the development of NTEHs. The Site is situated in an area with different site levels ranging from +2.6mPD to +7.3mPD with residential dwellings, grassland and a site for proposed public vehicle park. It is considered that the proposed land filling to provide a levelled site platform is not excessive and its formation level is comparable to the surrounding areas.
- 12.3 According to TPB PG-No. 12C, a minor portion of the Site (about 7.7%) falls

within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area and prevent development that would have off-site disturbance impact on the ecological value of fish ponds. DAFC has no comment on the application from nature conservation point of view.

- 12.4 The proposed land filling would unlikely cause significant adverse impacts on the area. CE/MN, DSD has no objection in principle to the proposed filling of land from public drainage point of view. DEP has no objection to the application and reminds the applicant's responsibility to comply with all relevant environmental legislations during the construction of the project, and the applicant is also advised to follow the Recommended Pollution Control Clauses for Construction Contracts to minimise the environmental impacts during the construction stage. There are no adverse comments from other concerned departments including C for T, D of FS and CTP/UD&L, PlanD from traffic, fire safety and landscape perspectives. Should the application be approved, technical requirements of CE/MN of DSD can be addressed by imposing the approval conditions recommended in paragraph 13.2 below.
- 12.5 Regarding the public comment received during the statutory public inspection period of the application as detailed in paragraph 11, the planning assessment and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, 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 5.5.2027, 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) the submission of a drainage proposal before the commencement of the land filling works on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the implementation of the drainage proposal upon completion of the land filling works on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) if any of the above planning condition (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 There is no strong reason to recommend rejection of the application.

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 9.3.2023
Appendix Ia	FI received on 28.4.2023
Appendix II	Extract of TPB PG-No. 12C
Appendix III	Previous application
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Layout Plan
Drawings A-2 and A-3	Sections showing filling of land
Plans A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2023**