

RNTPC Paper No. A/YL-PS/644
For Consideration by
the Rural and New Town
Planning Committee
on 24.9.2021

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

APPLICATION NO. A/YL-PS/644

Applicant : Mr. TANG Ka Wing

Site : Lots 490 RP (Part), 492 S.B (Part), 492 S.F (Part) and 492 RP (Part) in D.D. 122, Ping Shan, Yuen Long, New Territories

Site Area : About 360 m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Draft Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/19

Zoning : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]

Application : Filling of Land for Permitted Houses (New Territories Exempted Houses) and Footpath

1. The Proposal

- 1.1 The applicant seeks planning permission for filling of land for permitted houses (New Territories Exempted Houses) (NTEHs) and footpath 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 “V” zone on the OZP, ‘House (NTEH only)’ is a Column 1 use which is always permitted. According to the covering Notes of the OZP, provision of footpath is always permitted. However, 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 uses/developments always permitted under covering Notes, requires planning permission from the Town Planning Board (the Board). The Site is currently paved with concrete (**Plans A-4a and A-4b**).
- 1.2 The area of filling of land is about 360m² and the thickness of filling is 0.08m. The Site is currently accessible via a track leading to Ping Shan Nam Pak Road (**Plan A-2**). According to the applicant, the Site has been formed for NTEHs and footpath to enhance pedestrian connectivity for surrounding villagers. No further filling of land is required. The extent of filling area and layout plan of the NTEHs submitted by the applicant is at **Drawings A-1 and A-2**.

- 1.3 Major portion of the Site was involved in a previous application (No. A/YL-PS/355) covering a larger site for filling and excavation of land for development of NTEHs approved by the Rural and New Town Planning Committee (the Committee) on 21.10.2011. Upon approval, only part of the site under the previous application was filled and built with NTEHs. The planning permission for the remaining parts of the site under application No. A/YL-PS/355 lapsed on 22.10.2015. The Site is currently not covered by any valid planning permission.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 5.8.2021 (Appendix I)
 - (b) Further Information (FI) received on 2.9.2021 to respond departmental comments (Appendix Ia)
 - (c) FI received on 15.9.2021 to respond departmental comments (Appendix Ib)
- [(b) and (c) are exempted from publication and recounting]*

2. Justifications from the Applicant

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

- (a) The Site was subject to a previous planning permission covering a larger site for filling and excavation of land for 7 permitted NTEHs under application No. A/YL-PS/355. Among the 7 NTEHs, 2 were approved and completed; and Small House (SH) applications for the remaining 5 NTEHs will be submitted to Lands Department (LandsD) soon.
- (b) The Site is proposed to be paved with concrete to prevent clogging of drains, breeding of mosquitoes, and protecting the existing underground power supply and pipes.
- (c) Before the commencement of development of NTEHs, the Site could be used for pedestrian circulation. The paved area would improve the environment, hygiene and safety.

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

The applicant is one of the “current land owners” of the Site. In respect of other lots, the applicant has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB-PG No. 31A) by publishing a notice in local newspapers and posting site notices in prominent position. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

Major portion of the Site was involved in a planning permission for filling and excavation of land for development of NTEHs approved by the Committee on 21.10.2011 but lapsed on 22.10.2015. The Site is subject to a planning enforcement action that an Enforcement Notice (Case No. E/YL-PS/731) was issued on 13.5.2021 against unauthorised development (UD) of filling of land on the Site. Subsequently, a Reinstatement Notice (RN) was served on 2.6.2021 and expired on 2.9.2021 (**Plan A-2**). A recent site inspection revealed that RN has not been complied with. Prosecution may be followed.

5. **Previous Application**

5.1 Major portion of the Site is involved in a previous application (No. A/YL-PS/355) for filling and excavation of land for development of NTEHs. Details of the previous applications are summarised at **Appendix II** and the locations are shown on **Plan A-1**.

5.2 Application No. A/YL-PS/355 for filling and excavation of land for development of 7 NTEHs was approved with conditions on 21.10.2011 mainly on consideration that the development was in line with the planning intention of the “V” zone and no adverse comment from relevant government departments and/or public was received. Upon approval of the application, only part of the site was filled and only 2 NTEHs had been built (i.e. the NTEHs at Lots 492 S.A and S.C in D.D. 122 (**Plan A-2**)). The planning permission lapsed on 22.10.2015.

6. **Similar Application**

There is no similar application for filling of land for development of NTEHs within the same “V” zone.

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

7.1 The Site is:

- (a) currently vacant and paved with concrete (**Plans A-2, A-4a and A-4b**);
- (b) accessible via a footpath connecting a track leading to Ping Shan Nam Pak Road (**Plan A-2**); and
- (c) located entirely within the Village Environs of Hang Tau Tsuen, Hang Mei Tsuen and Sheung Cheung Wai (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) predominantly village houses with some parking of vehicles and workshops which are suspected UD and vacant land (**Plans A-2 and A-3**); and
- (b) to the west is Yeung Hau Temple which is a Grade 3 historic building and forms part of the Ping Shan Heritage Trail.

8. Planning Intention

- 8.1 The planning intention of “V” zone is to reflect existing recognised 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.
- 8.2 As filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required.

9. Comments from Relevant Government Departments

- 9.1 The following Government Departments have been consulted and their views on the application and the public comments are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises four Old Schedule Agricultural Lots all in D.D. 122 held under the Block Government Lease and do not have building status.
 - (b) The Site falls within the common Village Environ Boundary of Hang Tau Tsuen, Hang Mei Tsuen and Sheung Cheung Wai (**Plan A-1**).
 - (c) There is one SH application under processing within the Site but has not been approved.
 - (d) Should planning approval be given to the subject planning application, the registered lot owners should inform DLO/YL, and DLO/YL will consider the SH application acting in the capacity as the landlord as its sole discretion in accordance with the New Territories Small House Policy when the SH application is due for processing. There is no guarantee that such SH application would be approved. Any SH applications, if approved, would be subject to such terms and conditions including, among others, the payment of premium and/or administrative fee as may be imposed by LandsD.

Traffic

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

- (a) Adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (b) The village road connecting the Site with the nearby public roads is not and will not be maintained by his office. His office would not be responsible for maintaining any access connecting the Site with the nearby public roads.

Environment

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

- (a) He has no objection to the application.
- (b) Nonetheless, the applicant is advised to follow the Recommended Pollution Control Clauses for Construction Contracts (website: https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc_1.html) to minimise the environmental impacts during the construction stage. It is the applicant's responsibility to comply with all relevant environmental legislations during the construction of the project.

Landscape

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

According to the aerial photo of 2020, the Site is fully hard paved without any existing vegetation. The Site is situated in an area of rural fringe landscape character predominated by village houses, temporary structures, parking areas in the proximity. The proposed development is considered not entirely incompatible with the landscape character of the surrounding area. Significant landscape impact arising from the proposed development is not envisaged.

Drainage

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

He has no objection in principle to the application from a drainage point of view. Should the Board consider that the application is acceptable from a planning point of view, he would suggest that 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 Division.

Building Matters

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

The applicant should note his detailed comments at **Appendix IV**.

Others

- 9.1.7 Comments of the Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (ES(A&M), AMO):

- (a) He has no objection to the application from the built heritage and archaeological conservation perspective.
- (b) The applicant should note his detailed comments at **Appendix IV**.

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

- (a) He has no comment on the application.
- (b) The applicant should note his detailed comments at **Appendix IV**.

District Officer's Comments

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

He has not received any feedback from locals.

- 9.2 The following Departments have no comment on the application:

- (a) Commissioner for Transport (C for T)
- (b) Commissioner of Police (C of P);
- (c) Director of Fire Services (D of FS);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Project Manager (West) (PM(W)) CEDD; and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During the Statutory Publication Period

On 13.8.2021, the application was published for public inspection. During the statutory public inspection period, one objecting public comment from an individual (**Appendix III**) was received on the grounds that the proposed development will have adverse traffic and environmental impacts.

11. Planning Considerations and Assessments

- 11.1 The application is for filling of land for permitted houses (NTEHs) and footpath at the Site zoned “V” on the OZP, which is primarily intended for development of SHs by indigenous villagers. According to the applicant, the filling of land involving an area of about 360m² and a depth of 0.08m is to facilitate NTEHs development and footpath serving the surroundings villagers. In this regard, the applied filling of land is considered in line with the planning intention of “V” zone.
- 11.2 The requirement for planning permission for filling of land within “V” zone is to address the possible drainage impact on the adjacent areas and adverse impacts on the natural environment. In this regard, CE/MN, DSD 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. DAFC also has no comment on the application. In view of the extent and scale of the land filling, it is considered not incompatible to the surrounding areas and the area involved is not unreasonably large.
- 11.3 Other relevant Government departments, including DEP, C for T, CHE/NTW, HyD and CTP/UD&L, PlanD, have no objection to or adverse comment on the application. DEP advises the applicant to follow the Recommended Pollution Control Clauses for Construction Contracts to minimise the environmental impacts during the construction stage. CTP/UD&L, PlanD considers that significant change to the landscape character arising from the application is not anticipated. It is expected that no significant environmental, traffic and landscape impacts would be generated.
- 11.4 Major portion of the Site is subject to a previous planning permission under application No. A/YL-PS/355 for the same use which lapsed in 2015. Approval of the application is in line with the previous decision of the Committee. There is no similar application within the same “V” zone.
- 11.5 There is a public comment objecting to the application received as summarised in paragraph 10 above. The planning considerations and assessments in the paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.

- 12.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the filling of land under application is already completed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval condition

the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

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

there is no strong justification for the applied filling of land which is considered excessive in scale for Small House development(s) and footpath.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 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.

14. Attachments

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| Appendix I | Application form received on 5.8.2021 |
| Appendix Ia | FI received on 2.9.2021 |
| Appendix Ib | FI received on 15.9.2021 |
| Appendix II | Previous Application |
| Appendix III | Public comment |
| Appendix IV | Advisory Clauses |
| Drawing A-1 | Extent of Filling Area |
| Drawing A-2 | Layout Plan of NTEHs |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and 4b | Site Photos |

**PLANNING DEPARTMENT
SEPTEMBER 2021**