

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/700

- Applicants** : Messers Leung Man Kit, Shing Wai Kit, Leung Man Hong, Leung Wai Kit and Leung Yiu Wai represented by Glister Engineering Consultants Company
- Site** : Lots 182 S.A RP, 182 S.B, 182 S.C, 182 S.D RP and 182 RP (Part) in D.D. 123, near Shing Uk Tsuen, Ping Shan, Yuen Long, New Territories
- Site Area** : About 843 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/20
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Filling of Pond for Four Permitted Houses (New Territories Exempted Houses (NTEHs) – Small Houses (SHs))

1. The Proposal

- 1.1 The applicants seek planning permission for proposed filling of pond for four permitted NTEHs (SHs) at application site (the Site) zoned “V” on the OZP (**Plan A-1**). According to the Notes for the “V” zone on the OZP, while ‘House (NTEH only)’ is always permitted, filling of pond requires planning permission from the Town Planning Board (the Board). The Site is currently a dry pond largely covered with vegetation (**Plans A-2 and A-4**).
- 1.2 The Site is accessible from Fuk Shun Street via a local track (**Plans A-1 and A-3**). According to the applicant’s proposal, the entire pond will be filled with concrete and the proposed depth of filling is about 1.3m which will raise the site level from 3.0 mPD to 4.3 mPD (**Drawing A-5**). The proposed pond filling works is anticipated to be completed in September 2027. The layout plans of the NTEHs, section plan of the pond filling extent and the plan showing the vehicular access during construction period submitted by the applicants are at **Drawings A-1 to A-6**.

- 1.3 The Site is the subject of a previous application (No. A/YL-PS/574) for proposed filling of pond by the same applicants which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.3.2019 (details at paragraph 6 below) . Nevertheless, the proposed filling of pond has not been commenced and the planning permission lapsed on 22.3.2023. The Site is currently not covered by any valid planning permission.
- 1.4 In support of the application, the applicants have submitted the following documents:
- (a) Application form with attachments received on 6.10.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 8.11.2023* **(Appendix Ia)**
 - (c) FI received on 6.12.2023* **(Appendix Ib)**
 - (d) FI received on 29.12.2023* **(Appendix Ic)**
- *accepted and exempted from publication and recounting*
- 1.5 On 24.11.2023, the Committee agreed to the applicants' request to defer making a decision on the application for two months.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in **Appendices I, Ia and Ic**. They can be summarised as follows:

- (a) Three out of four proposed Small House (SH) applications have been approved by the Lands Department (LandsD). The proposed development is compatible with the surrounding area.
- (b) The purposes of pond filling are to raise the level to avoid flooding and to consolidate the ground condition.
- (c) The extent of pond filling is considered insignificant as it does not form any slope/wall higher than 1.5 m.
- (d) Technical assessments including drainage proposals and geotechnical assessment reports have been submitted during the approval period of the previous planning permission pending agreement by relevant authorities.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Town Planning Board Guidelines

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) are relevant to this application. According to the said Guidelines, the Site falls within the Wetland Buffer Area (WBA). Relevant extract of the Guidelines is at **Appendix II**.

6. Previous Application

The Site is the subject of a previous application (No. A/YL-PS/574) for proposed filling of pond for four permitted NTEHs (SHs) which was approved with conditions by the Committee on 22.3.2019 mainly on the consideration that the proposed development was in line with the planning intention of the “V” zone; not contravening TPB PG-No.12C; and there was no objection from relevant government departments. The planning permission lapsed on 22.3.2023. Details of the previous application are in **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Applications

There are three similar planning applications (No. A/YL-PS/596, 597 and 598) for proposed filling of pond for permitted NTEHs (SHs) approved with conditions by the Committee in 2019 mainly on similar considerations as those in paragraph 6 above. Details of the applications are summarised in **Appendix III** and 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) currently a dry pond covered with vegetation; and
- (b) accessible via a local track leading to Fuk Shun Street (**Plan A-2**);

8.2 The surrounding areas comprise predominantly village settlements and ponds intermixed with unused land.

9. Planning Intention

9.1 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 SH 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 and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required.

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 (DLO/YL), LandsD:

- (a) He has no adverse comment on the application.
- (b) According to his record, three SH applications were approved and one SH applications is being processed within the Site.
- (c) The applicants should note his advisory comments at **Appendix IV**.

Nature Conservation and Fisheries

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

- (a) He has no adverse comment on the application from nature conservation perspective.
- (b) The Site falls within the WBA near the WCA to the north which is 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). No Ecological Impact Assessment (EcoIA) or other information has been submitted to demonstrate that the proposed development would not cause negative impacts on the ecological value of the WCA during the construction phase and operation phase.
- (c) Pond filling is generally not recommended from a fisheries viewpoint. Although the fish pond is currently of unknown status, it has the potential to be used for fish culture operations in the future. As such, the application is not supported from the fisheries viewpoint.
- (d) Notwithstanding the above, it is noted that the Site is zoned “V” and under private ownership of villagers. The relevant authorities should consider striking a balance between wetland conservation and local demand for SH development

in the area. In this regard, it is noted that the proposed SH applications have been granted by DLO/YL according to the applicants' submission.

Drainage

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

- (a) He has no in-principle objection to the application from a drainage point of view.
- (b) Should the Board consider that the application acceptable from planning point of view, he would suggest that a condition requiring the applicant to submit a drainage proposal, and to implement and maintain the proposed drainage facilities to the satisfaction of DSD should be stipulated.

Environment

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

- (a) In view of the scale of the works, he has no adverse comment on the proposed pond filling for the permitted NTEH development.
- (b) He notes that the applicants seek planning approval for proposed filling of pond of a height of 1.3m for four permitted houses (NTEH - SHs) at the Site. The Site falls within an area zoned "V" on the approved OZP. It is also noted that the site falls within the WBA.
- (c) The applicant is advised to adopt appropriate water pollution preventive measures / practices set out in the relevant guidance notes to prevent polluting adjacent waterbodies during the proposed filling of pond.
- (d) The applicant should note his advisory comments at **Appendix IV**.

Fire Safety

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

- (a) He has no objection in principle to the application provided that the proposed houses would not encroach onto any exiting

Emergency Vehicular Access (EVA) under application in accordance with LandsD's record.

- (b) The applicants are 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.

District Officer's Comments

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

He relays an objection from the Village Representative (VR) of Ng Uk Tsuen on the application. The VR is of the view that the proposed development will bring about adverse environmental impact and has reservation on the identities of the applicants being eligible for SH applications (**Appendix V**).

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

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Commissioner of Police (C of P);
- (d) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (e) Commissioner for Transport (C for T);
- (f) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (g) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (h) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments received During the Statutory Publication Period

On 13.10.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from individual was received (**Appendix VI**) objecting to the application mainly on the ground that the fish ponds at the Site should be protected to maintain the ecological integrity.

12. Planning Considerations and Assessments

12.1 The application is for filling of pond for four permitted houses (NTEHs) at

the Site zoned “V” on the OZP. The planning intention of the “V” zone is primarily for development of SHs by indigenous villagers. According to the applicants, the proposed pond filling works, which involve an area of 843m² and a depth of 1.3m, are to avoid flooding and for consolidation of the ground condition for construction of four NTEHs/SHs. DLO/YL, LandsD advises that three SHs applications have been approved and one SH application is being processed at the Site. In this regard, the proposed filling of pond for NTEHs/SHs is considered in line with the planning intention of “V” zone.

- 12.2 The requirement for planning permission for filling of pond 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 has no adverse comment on the proposed pond filling from nature conservation perspective.
- 12.3 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 submission requirement. The Site is located within a cluster of existing village houses. Although no EcoIA is submitted and DAFC does not support the application from fisheries point of view in that the proposed pond filling would inevitably result in loss of potential fish culture operations, he has no adverse comment from nature conservation point of view. He also notes that the Site is zoned “V” and under private ownership of villagers and the proposed SH applications have been granted or 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.
- 12.4 Other relevant government departments, including C for T, CHE/NTW, HyD, DEP and CTP/UD&L, PlanD have no objection to or no adverse comment on the application from traffic, environmental and landscape perspectives. Should the application be approved, the applicants will be advised to follow the ‘Practice Note for Professional Person (ProPECC) PN 2/23 “Construction Site Drainage”’ and Recommended Pollution Control Clauses for Construction Contracts to minimise the environmental impacts during the construction stage.
- 12.5 The Committee has approved one previous application and three similar applications for filling of pond for permitted NTEHs within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There are two public comments including one relayed by HAD objecting to the application as summarised in paragraphs 10.1.6 and 11 above. The planning considerations and assessments in the paragraphs 12.1 to 12.5 above are relevant. Regarding the eligibility of the SH applicants, LandsD would

conduct verification when processing SH grants applications and three SH applications have already been approved and one SH application is under processing.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraphs 10.1.6 and 11 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 26.1.2028, 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 drainage proposal before the commencement of any pond filling works at the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the implementation of a drainage proposal and maintenance of the implemented drainage facilities upon completion of the pond 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 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 at **Appendix IV**.

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

the applicants fail to demonstrate that the proposed pond filling works would not cause adverse ecological impacts.

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 applicants.

15. Attachments

Appendix I	Application Form received on 6.10.2023
Appendix Ia	FI received on 8.11.2023
Appendix Ib	FI received on 6.12.2023
Appendix Ic	FI received on 29.12.2023
Appendix II	Extract of TPB PG-No.12C
Appendix III	Previous and Similar Applications
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment relayed by DO(YL), HAD
Appendix VI	Public Comment
Drawing A-1	Layout Plan of Lot 182 S.A RP in D.D. 123
Drawing A-2	Layout Plan of Lot 182 S.B in D.D. 123
Drawing A-3	Layout Plan of Lot 182 S.C in D.D. 123
Drawing A-4	Layout Plan of Lot 182 S.D RP in D.D. 123
Drawing A-5	Section Plan of Pond Filling
Drawing A-6	Proposed Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**