

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/548

- Applicant** : Top Gate International Holdings Limited represented by Ms. CHENG Yin Fong
- Site** : Lots 4989 RP, 4990 and 4991 in D.D. 116, Shung Ching San Tsuen, Tai Tong Road, Yuen Long, New Territories
- Site Area** : 1,693.5 m²
- Lease** : Block Government Lease (mainly demised for agricultural use with a minor portion of Lot 4990 in D.D. 116 for building purpose)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18
- Zoning** : “Residential (Group D)” (“R(D)”)
[Restricted to a maximum plot ratio (PR) of 0.4 and a maximum building height (BH) of 3 storeys (9m)]
- Application** : Proposed Houses and Associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to develop three detached houses with associated excavation of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “R(D)” zone, both ‘House (not elsewhere specified)’, which is a Column 2 use, and excavation of land require planning permission from the Town Planning Board (the Board). The Site is currently occupied by open storage of construction machinery and materials without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development comprises three 3-storey houses for an estimated population of 15 residents and a guard house, while the uncovered area of the Site will be used for private open space/landscaping, ancillary parking and emergency vehicular access. The entire Site will be excavated for the purpose of site formation and installation of underground septic tank system. Plans showing the proposed site layout, floor plans/sections, elevations and extent of proposed excavation submitted by the applicant are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site involves a previous application (No. A/YL-TT/284) for the same use as the current application (albeit without excavation of land), which was approved with conditions on 21.9.2012. Subsequently, applications No. A/YL-TT/284-1 (for extension of time for commencement of the development up to 21.9.2020) and A/YL-TT/284-3 (for design-related Class B amendments to the approved scheme) were approved on 19.9.2016 and 19.1.2018 respectively. Compared with application No. A/YL-TT/284-3, the current application is submitted by a different applicant for the same use (albeit with excavation of land) at the same site with the same layout and development parameters, which are summarised as follows:

	Previously Approved Application No. A/YL-TT/284-3	Current Application No. A/YL-TT/548
Site Area	1,693.5 m ²	
Gross Floor Area	677.398 m ²	
PR	Not more than 0.4	
Site Coverage	15.63%	
No. of Units	3	
No. and Height of Blocks	4 <ul style="list-style-type: none"> three houses (9m, 3 storeys) one guard house (2.3m, 1 storey) 	
No. of Parking Spaces	6 <ul style="list-style-type: none"> for private cars (5m x 2.5m each) 	
Private Open Space	813 m ²	

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

- (a) Application Form with Attachments (Traffic Impact Assessment (TIA), Traffic Noise Impact Assessment, Industrial Environmental Review Report, Environmental Mitigation Measures Report and plans) received on 19.4.2022 **(Appendix I)**
- (b) Further Information (FI) received on 11.5.2022* **(Appendix Ia)**
- (c) FI received on 5.8.2022* **(Appendix Ib)**
- (d) FI received on 7.9.2022* **(Appendix Ic)**
- (e) FI received on 20.10.2022* **(Appendix Id)**
- (f) FI received on 5.12.2022* **(Appendix Ie)**
**exempted from publication and recounting requirements*

- 1.5 On 10.6.2022 and 23.9.2022, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer making a decision on the application each for a period of two months as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, its attachments and FI (**Appendices I and Ib**). They can be summarised as follows:

- (a) the Site is the subject of previous planning approvals for the same use. There are other houses in the vicinity of the Site. The proposed houses with landscape planting could improve and beautify the Site and the surrounding area, and help phase out the open storage use currently at the Site;
- (b) the previously approved development proposal was put on hold as the lease modification application was still under processing;
- (c) the TIA has demonstrated that the proposal will not generate adverse traffic impact on the surrounding area. Pedestrian and traffic safety in the area will be improved when the open storage use at the Site is phased out; and
- (d) with the implementation of the proposed noise mitigation measures, including a 2.3m-high concrete wall along the site boundary, 1.1m-high glass balustrade on the setback roof terraces, the omission of side window facing Tai Tong Road on the 2/F of House No. 3 and incorporation of architectural fin on the 1/F of House No. 3, the proposal would not be subject to adverse noise impact.

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

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

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

Application No. A/YL-TT/284 for the same use (without excavation of land) was approved with conditions by the Committee on 21.9.2012 mainly on the considerations that the proposal was in line with the planning intention of the “R(D)” zone; not incompatible with the surrounding rural environment; and there were no adverse departmental comments. Subsequently, applications No. A/YL-TT/284-1 and A/YL-TT/284-3 were approved by the Director of Planning under the delegated authority of the Board on 19.9.2016 and 19.1.2018 respectively. However, the proposed development was not commenced and the permission expired on 22.9.2020. Details of the previous applications are summarised in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There was one similar planning application (No. A/YL-TT/273) for proposed houses and minor relaxation of BH restriction straddling the subject “R(D)” zone and adjacent “Village Type Development” zone, which was approved with conditions by the Committee in 2011 mainly on the grounds that the proposed development was in line with the planning intention of the “R(D)” zone; the extent of minor relaxation was not excessive; the proposal was not incompatible with the surrounding areas; and adverse impacts on the surrounding areas were not anticipated. Details of the application are summarised in **Appendix III** and the location of the site is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Tai Tong Road to its east via a short section of a local road (**Plan A-2**);
- (b) unpaved and fenced off; and
- (c) currently occupied by open storage of construction machinery and materials without valid planning permission (**Plans A-2** and **A-4**).

7.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):

- (a) rural residential in nature comprising predominantly village houses intermixed with private gardens, warehouse, shop, storage yard, car park, workshop, offices, agricultural land, ruins and vacant land/structures;
- (b) there are residential structures in the immediate vicinity of the Site, with the nearest ones located to its immediate south and west; and
- (c) except for the workshop and storage yard, as well as a shop with valid planning permission (No. A/YL-TT/523), the warehouse, car park and offices in the vicinity are suspected unauthorized developments (UDs) subject to enforcement action.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) according to desktop checking, the Site falls within various private lots in D.D. 116. The Lots comprise Old Schedule “Agricultural” and “Building” lots held under the Block Government Lease. The actual site area and boundary of the Lots involved will be subject to verification upon receipt of land exchange application, if any;
- (b) regarding the applicant’s claim in paragraph 2(b) above, the applicant had not submitted the requisite documents for their land exchange application and the validity of the planning approval had since expired. Therefore, the land exchange application could not be proceeded further; and
- (c) in the event that planning permission is given by the Board for the proposal, the applicant should be reminded of the detailed comments on land exchange at **Appendix V**.

Traffic

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

- (a) the local track leading to the Site is not under her purview; and
- (b) the applicant should be reminded of the detailed comments at **Appendix V**.

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

The applicant should be reminded of the detailed comments at **Appendix V**.

Environment

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

- (a) no objection in principle to the proposed development subject to the imposition of an approval condition requiring submission of an updated Noise Impact Assessment and the implementation of mitigation measures identified therein to his or the Board’s satisfaction; and
- (b) the applicant should also be reminded of the detailed comments at **Appendix V**.

Drainage

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

- (a) no objection in principle to the proposed development from the public drainage point of view; and
- (b) should the Board consider the application acceptable from the planning point of view, approval conditions requiring the submission and implementation of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated. The applicant should also be reminded of the detailed comments at **Appendix V**.

Fire Safety

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

He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installations being provided to his satisfaction. The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application. The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

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

His office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on the application:

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

10. Public Comments Received During the Statutory Publication Periods

On 26.4.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to the application on the grounds that the proposal will generate adverse traffic, environmental, drainage and fire safety impacts on the surrounding area (**Appendices IV-1 and IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for three proposed houses with associated excavation of land at the Site zoned “R(D)” on the OZP. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of the existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and also for low-rise, low-density residential developments. The proposed low-rise, low-density residential development would help phase out existing temporary uses at the Site, and the proposed development parameters are also in line with the development restrictions of the “R(D)” zone. As such, the proposal is in line with the planning intention of the “R(D)” zone.
- 11.2 While excavation of land within the “R(D)” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas, CE/MN, DSD and DEP have no objection to/adverse comment on the application from drainage and environmental perspectives. The applicant has also justified the need for the associated excavation of land for the purpose of site formation and installation of septic tank system.
- 11.3 The proposed development is compatible with the surrounding area which comprises predominantly village houses and residential structures (**Plan A-2**). Although there are warehouse and office uses in the vicinity of the Site, they are suspected UDs subject to planning enforcement action.
- 11.4 There is no adverse comment on the application from concerned government departments including C for T, DEP, CE/MN, DSD and D of FS. Adverse traffic, environmental/sewerage, drainage and fire safety impacts on the surrounding area are not envisaged. Relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments.
- 11.5 Given that one previous approval for the same use was granted to the Site and one similar application straddling the subject “R(D)” zone has been approved by the Committee, approval of the current application is in line with the Committee’s previous decisions.
- 11.6 There are two public comments received objecting to the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant.

12. **Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, the permission shall be valid until 9.12.2026, 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 an updated Noise Impact Assessment and implementation of mitigation measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

- 12.3 There is no strong reason to recommend rejection of the application.

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), if any, 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**

Appendix I
Appendix Ia
Appendix Ib

Application Form with Attachments received on 19.4.2022
FI received on 11.5.2022
FI received on 5.8.2022

Appendix Ic	FI received on 7.9.2022
Appendix Id	FI received on 20.10.2022
Appendix Ie	FI received on 5.12.2022
Appendix II	Previous Application
Appendix III	Similar Application
Appendices IV-1 to IV-2	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Floor Plans/Section
Drawings A-3 and A-4	Elevations
Drawing A-5	Land Excavation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2022**