

**For discussion
on 25 April 2016**

**LEGISLATIVE COUNCIL
PANEL ON ENVIRONMENTAL AFFAIRS**

Issues relating to the soil fill near Kingswood Villas in Tin Shui Wai

Introduction

Government attaches great importance to the case of the soil fill near Kingswood Villas in Tin Shui Wai which has raised public concerns. Inter-departmental meetings between Environmental Protection Department (EPD), the Planning Department (PlanD), the Buildings Department (BD), the Civil Engineering and Development Department (CEDD), and the Lands Department (LandsD) were held on 8, 16 and 29 March 2016 and various departments are taking appropriate enforcement actions under their respective remit based on the relevant compliance requirements and the specific condition of the case.

Details of Action(s) Taken by Departments

2. Inspections by the BD and the CEDD have revealed that there was no indication of imminent collapse of the soil fill. However, as the fill materials were found to be loose due to the lack of proper compaction and the vegetation covering the land fill has been recently removed, the side slopes of the fill are potentially unstable and liable to become dangerous. In addition, the situation would be deteriorated in the rainy season. Having considered the professional advice of the CEDD, the BD served dangerous hillside orders (DHOs) on 8 March 2016 to the owners of the concerned pieces of land under section 27A of the Buildings Ordinance (BO), requiring them to carry out urgent shotcreting work for the provision of a temporary protective cover as the first stage remedial measure. The DHOs also require the owners to appoint registered building professionals to undertake an investigation of the soil fill and submit a long term remedial works proposal to ensure public safety. The BD, together with other concerned Government departments, had meetings with the representatives and consultants of the owners to explain the requirements of the DHOs and enforcement actions under the BO, including carrying out the shotcreting works in the owners' default and then recover the full cost of the work, together with a supervision charge and a surcharge of not exceeding 20 per cent on the cost of the works from the owners, and instigating prosecution against the owners for non-compliance with the DHOs. The BD and CEDD have been closely monitoring the progress of first stage remedial measure being carried out by the owners and are prepared to take immediate enforcement actions to ensure public safety if required.

3. The PlanD has taken enforcement actions in accordance with the Town Planning Ordinance (TPO). The concerned site is mainly zoned "Recreation" (REC) on the Ping Shan Outline Zoning Plan (OZP). According to the Notes of the OZP, any recreational or other developments, which involve filling of land/excavation of land in the said zone requires prior planning permission from the Town Planning Board (TPB) or otherwise may constitute an unauthorised development under the TPO. However, PlanD's records reveal that the site was used for open storage of sand before the first gazettal of the draft Ping Shan Development Permission Area (DPA) Plan on 18 June 1993. As such, storage of sand at the site is regarded as an "existing use" under the TPO and does not constitute an unauthorised development.

4. The PlanD noticed that the site used for open storage of sand was covered by vegetation in recent years. However, the vegetation cover was removed early this year and the original appearance as open storage of sand was revealed. PlanD also noticed that there were excavation and bulldozing activities at the site. PlanD is conducting further investigations on the current use of the site and has issued on 21 March 2016 a Notice to Require Provision of Information under section 22(7) of the TPO to the land owner and the responsible person to collect more information on the use of the site. Should there be sufficient evidence to prove an unauthorised development occurred on site, appropriate enforcement actions will be taken.

5. Besides, PlanD's recent site inspection revealed that filling of land was observed in areas to the east, west and south of the site which were outside the boundary of open storage of sand existed before the relevant DPA plan came to effect in 1993. The said filling of land involved areas zoned "Green Belt" and "Recreation" respectively on the Ping Shan OZP. Such operation constitutes an unauthorised development under the TPO as no planning permission has been granted by the TPB. The PA on 21 March and 6 April 2016 has issued Enforcement Notices under section 23(1) of the TPO to the concerned land owners requiring discontinuance of the unauthorised filling of land in the said areas respectively within seven days. The PlanD also found in the adjoining land within the same "Recreation" zone storage of containers. As the storage use has not obtained planning permission from the TPB, it constituted an unauthorised development under the TPO. The PA has issued on 6 April 2016 Enforcement Notices to the relevant land owners requiring discontinuance of the unauthorised storage use on the site.

6. The PlanD will continue to monitor the above cases and having regard to the circumstances and evidence collected, will consider appropriate enforcement and prosecution action in accordance with the TPO. According to sections 21 and 23 of the TPO, any person undertakes/continues unauthorised development or fails to comply with the Notice will be subject to a fine of \$500,000 for a first conviction, and \$1,000,000 for subsequent convictions plus a daily fine of \$50,000 (first conviction) or \$100,000 (subsequent convicted) if the unauthorised development or non-compliance with the notice continues.

7. Records of the EPD revealed that soil depositing activity was conducted by the occupier several years ago. In response to the request by the EPD, dust suppression measures including installation of vehicle washing facilities at the site entrance, vegetation work on slope and path were conducted in 2008. However, it

was recently revealed that the vegetation was removed, and site formation works were being carried out. As the construction works did not observe the regulations stipulated under the Air Pollution Control (Construction Dust) Regulation to prevent dispersion of dust, the EPD has warned the responsible person and is now preparing for instituting prosecutions in accordance with the law. The EPD will continue to collaborate with other government departments to step up inspection to combat any illegal dumping of construction waste.

Enforcement & Inter-departmental Co-ordination in Handling Disposal of Construction Waste on Private Land

8. While proper storage or reuse of construction waste for land filling can optimize use of resources under the principle of the conservation of natural resources, its application and operation in practice must comply with all the relevant legislations of Hong Kong, including permission of landowner, environmental, land use, planning, construction safety, etc. To cope with the depositing or dumping of construction waste on a private land, the EPD has introduced the prior notification procedures under the Waste Disposal (Amendment) Ordinance since 4 August 2014. It requires a person to obtain the written permission of the owners given in a specified form and submit it to the EPD before the intended date of the deposition. After receiving the submission, the EPD will inform the relevant departments of the proposed deposition. It is to enable relevant departments to take follow-up action under their respective purview and to ensure the proposed deposition will comply with the relevant legislative requirement. The Waste Disposal (Amendment) Ordinance also facilitates monitoring of the relevant department as a stepped-up action against illegal dumping of construction waste.

9. If illegal land filling operation constitutes an unauthorized development under the TPO, PlanD will instigate enforcement action against the concerned parties by issuance of Enforcement Notice or Stop Notice requiring the concerned parties to discontinue the unauthorized development by a specified date. If the land formed by dumping of construction waste or land filling activities is likely to collapse and thereby will be likely to cause a risk of injury to any person or damage to any property, the BD may serve an order under section 27A of the BO to the land owner requiring the land owner to do such works as specified in the order, appoint the registered building professionals to undertake an investigation of the slope/land and submit a remedial works proposals for approval, and carry out the approved remedial works in order to ensure the public safety.

10. The Government has set up an inter-departmental co-ordination mechanism, coordinated by the EPD, including members from the Agriculture, Fisheries and Conservation Department, the BD, the CEDD, the Food and Environmental Hygiene Department, the Drainage Services Department, the Home Affairs Department, the Highways Department, the LandsD and the PlanD to strengthen the monitoring of illegal waste dumping condition, to facilitate the exchange of intelligence, and to coordinate control actions. Under the mechanism, the departments will exercise their functions under their respective purview and conduct on-site inspection and enforcement work as necessary. The EPD and the various departments will conduct

annual review of actions taken against illegal dumping of construction waste.

Installation of Global Positioning System on Dump Trucks

11. Relevant departments will carry out detailed study on the practicability of compulsory installation of global positioning system on all registered dump trucks and will consult the industry as appropriate.

**Environment Bureau
Development Bureau
Environmental Protection Department
Civil Engineering and Development Department
Buildings Department
Planning Department
Lands Department**

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