

**English****Follow up of Soil Fill at Tin Shui Wai**

Government attaches great importance to the case of the soil fill near Kingswood Villas in Tin Shui Wai. After some discussion at an inter-departmental meeting 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) held on 8 March 2016, various departments are taking appropriate enforcement actions under their respective remit. These actions include an order to require strengthening the potentially dangerous slope to ensure public safety; requiring the landowner and responsible person to provide further information on the use of the site; issuing an Enforcement Notice requiring the notice recipient to discontinue any unauthorised development in relation to that part of the site confirmed to be unauthorised development; and preparing for prosecution actions against failing to implement proper dust suppression measures for the concerned site formation works. More details as follows.

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 coming rainy season. Having considered the professional advice of the CEDD, the BD has served dangerous hillside orders on 8 March 2016 to the owners of the concerned pieces of land under section 27A of the Buildings Ordinance (BO), requiring them to appoint registered building professionals to undertake an investigation of the land and submit a remedial proposal to ensure public safety and commence urgent shotcreting work for the provision of a protective cover as the first stage remedial measure. If the owners fail to comply with the orders, the BD may arrange carrying out of the work specified in the orders under section 27A(3) of the BO. The BD will 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 work from the owner. The BD added that if the landowner fails to comply with the Dangerous Hillside Orders, the Building Authority will consider instigating prosecution against the landowners.

3. The PlanD will take 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). Any recreational or other developments, including filling of land/excavation of land for such developments 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 June 18, 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 the 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 and is conducting further investigations on the current use of the site. The Planning Authority (PA) has served on 21 March 2016 a Notice to Require Provision of Information under section 22(7) of the TPO to the landowner 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. The PlanD's recent site inspection revealed that filling of land was observed in an area to the east of the site which was beyond the boundary of open storage of sand existed before the relevant DPA plan came to effect in 1993. The said filling of land involved an area which is largely zoned "Green Belt" 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 2016 has issued an Enforcement Notice under section 23(1) of the TPO to the concerned land owner requiring discontinuance of the unauthorised filling of land in the said area within seven days. The PlanD also found signs of further unauthorised filling of land expanding to the west. The PlanD is collecting evidence on this incident. There may be new suspected unauthorised development cases which require appropriate enforcement actions.

6. The PlanD will continue to follow up any suspected unauthorised development cases and having regard to the circumstances would consider prosecuting the land owners of the lot concerned 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. The PlanD reiterates that even if the existing use as open storage of sand is not regarded as an unauthorised development under the TPO, the land owner is obliged to comply with other statutory requirements of relevant legislations, including ensuring that the open storage of sand does not create slopes that potentially risk collapsing and affecting public safety.

7. The EPD found that the site formation works there 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.

8. While proper storage or reuse of construction waste for landfilling can optimize use of resources, its application and operation in practice must comply with all the relevant legislations of Hong Kong, including 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. In addition, 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.

10. On the proposed compulsory installation of global positioning system on all registered dump trucks, the relevant departments will carry out detailed study on its practicability and will consult the industry as appropriate.

Environmental Protection Department  
Civil Engineering and Development Department  
Buildings Department  
Planning Department  
Lands Department

29 March 2016