

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

**APPLICATION NO. A/YL-KTN/583**

<b><u>Applicant</u></b>	:	KONG Mei-kuen, Mandy
<b><u>Premises</u></b>	:	1/F, Kam Tin Centre, Lot 1684 in D.D. 109, Kam Tin Road, Kam Tin, Yuen Long
<b><u>Premises Area</u></b>	:	460 m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	New Grant No. 721
<b><u>Plan</u></b>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	:	“Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	:	School (Nursery / Kindergarten)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a school (nursery / kindergarten) at the application premises (the Premises). According to the Notes of the OZP, ‘School’ is a Column 2 use in “V” zone and planning permission from the Town Planning Board (the Board) is required.
- 1.2 The Premises involves conversion of the first floor of the Kam Tin Centre for school (kindergarten / nursery) use. The Kam Tin Centre is abutting Kam Tin Road and is currently an existing two-storey commercial block with a cockloft between the two floors. The Premises is currently used for the applied use without planning permission.
- 1.3 The Premises is the subject of a previous application No. A/YL-KTN/550 for the same use submitted by the same applicant which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 3.3.2017. The planning approval was revoked on 3.9.2017 due to non-compliance with condition on submission of fire services installations (FSIs) and water supplies for fire fighting.
- 1.4 According to the applicant, the Premises for the school use at first floor with a total floor area of 460m<sup>2</sup> comprises various sections for story-telling, science space, language lobby, art studio, dramatic play area, physical playground, music

hall, kitchen and toilets (**Drawing A-1**). The kindergarten accommodates a maximum of 120 students between 3 and 6 years old in total per day (60 students each in morning/afternoon session). Morning session is from 9a.m. to 12noon and afternoon session is from 1:30p.m. to 4:30p.m. The kindergarten opens on weekdays and will be closed on Saturdays, Sundays and public holidays. According to the applicant, the Premises is accessible from three stacks of stairs. Compared with the last approved application No. A/YL-KTN/550, the current application has the same applied use, area and layout. The layout plan and fire service installations (FSIs) proposal of the development submitted by the applicant are shown in **Drawings A-1** and **A-2**.

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

- (a) Application form with plans received on 8.12.2017 **(Appendix I)**
- (b) Further information (FI) received on 10.1.2018 **(Appendix Ia)** providing further justification and operation details, traffic arrangement and fire service installation details *(accepted and exempted from publication and recounting requirements)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form and FI submitted by the applicant at **Appendices I and Ia**. They can be summarized as follows:

- 2.1 The kindergarten would serve the Kam Tin residents and to provide early childhood education for those seeking education service in Yuen Long. The kindergarten would also support working parents to take care of their children when they are at work.
- 2.2 The development is abutting Kam Tin Road which is served by public transport including bus and public light bus. The school serves Kam Tin residents and the parents and children are advised to walk or take public transport to school.
- 2.3 Operation hour of the school is confined to after 9am in the morning and before 4:30pm in the afternoon. No noise complaint shall arise from the kindergarten. There are three easily accessible exits for the school, including one leading directly to the adjoining park lot, another is next to a crosswalk adjoining Kam Tin Road, ensuring easy evacuation of students. Automatic sprinklers are provided all over the school and manual fire hoses can easily be reached for use, if in need.
- 2.4 The applicant promised that if the application be approved, all the approval conditions will be complied with.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by posting notice at Kam Tin Centre and sending notice to Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Premises and the building are not a subject of any active planning enforcement case. Notwithstanding, as the previous planning permission (No. A/YL-KTN/550) on this Site was revoked on 3.9.2017, investigation is underway to ascertain whether the current use of the Site constitutes an unauthorized development. If confirmed, the Planning Authority will instigate enforcement action under the Town Planning Ordinance.

### **5. Previous Application**

The Premises is the subject of a previous application No. A/YL-KTN/550 for school (nursery / kindergarten) use which is the same use and submitted by the same applicant as the current application. The application was approved with conditions by the Committee on 3.3.2017 mainly on the consideration that the applied use within the Kam Tin Centre is compatible with other non-domestic uses in the same building and not incompatible with the surrounding areas which are predominantly village type development; the applied use will not adversely affect the existing village character of the area and cause significant impact on the surrounding areas; and relevant government department have no adverse comments. The planning approval was revoked on 3.9.2017 due to non-compliance with condition on provisions of fire services installations (FSIs) and water supplies for fire fighting. Details of the previous application are summarized in **Appendix II** and the location of the Site is shown on **Plan A-1**.

### **6. Similar Application**

There is no similar application for school (nursery/kindergarten) within the same “V” zone on the OZP.

### **7. The Premises and the Surrounding Areas (Plans A-1 to A-4d)**

7.1 The Premises is:

- (a) located within the village cluster of Tai Hong Wai in Kam Tin Shi;
- (b) currently occupied by Kingsway Kindergarten for various teaching / functional purposes, open area, an office, a kitchen and a toilet on the first floor of the Kam Tin Centre;

- (c) other uses in the Kam Tin Centre (G/F) include supermarket, real estate agencies, restaurant, grocery stores, etc.; and
  - (d) accessible from and abutting Kam Tin Road to its south.
- 7.2 The surrounding areas (**Plan A-2**) are predominantly residential in character with village houses, carparks, shops, a workshop and vacant/unused land :
- (a) to its north are village structures / New Territories Exempted Houses (NTEHs) in the “V” zone. Village houses / residential structures and some parking lots are located to the further north;
  - (b) to its west is a van track serving as access to the Kam Tin Village cluster in the north and west. To its further west are carpark and other village houses / residential structures;
  - (c) to its east are a sitting-out area and the Kam Tin Market. Further east are the Kam Tin Market Playground and other village houses / residential structures; and
  - (d) to its south is the Kam Tin Road. Further south are village houses / residential structures, shops, a workshop, carpark and vacant / unused land.

## **8. Planning Intention**

The planning intention of the “V” zone is to reflect existing recognized 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 Small Houses 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 ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

## **9. Comments from Relevant Government Departments**

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

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

- (a) He has no particular comment on the use of the Premises for school (nursery / kindergarten) purposes.

- (b) The Premises is within Lot No. 1684 in D.D. 109 ('the Lot'). The Conditions of Exchange dated 22.3.1962 (New Grant No. 721) provides that the Lot shall not be used for industrial purposes and no factory building shall be erected thereon.
- (c) Based on desk top study, the Lot falls within the Village Environs for Kat Hing Wai and Tai Hong Wai. The Lot is subject to Shek Kong Airfield Height Restriction.
- (d) No Small House application has been approved or under processing at the Site.

### **Education**

#### 9.1.2 Comments of the Secretary for Education (SED):

- (a) For school registration procedures, registration of schools is granted in accordance with the stipulated requirements under the Education Ordinance (Cap. 279) (EO) and relevant Guidelines. Permission from the Board and the LandsD should be obtained in respect of the proposed school premises. In addition, the Premises should be suitable for school use in terms of fire safety and building safety as confirmed by the Fire Services Department and the Buildings Department respectively. The applicant should also submit the documentary proof of the right to use the Premises, Occupation Permit (for premises designed and constructed as a school), the proposed curriculum, courses and fees information, etc for the consideration of SED.
- (b) There is no application and registration of kindergarten received at the Premises. The School Registration and Compliance Section is not in a position to comment on the application. There is no difference in treatment between nursery and kindergarten under the EO.

### **Traffic**

#### 9.1.3 Comments of the Commissioner for Transport (C for T):

Given the understanding that the application is the same as the previously approved application no. A/YL-KTN/550 and there are no vehicular access, parking and loading/unloading facilities, he has no comment on the application from traffic engineering perspective.

### **Nature Conservation**

#### 9.1.4 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

Noting that the premises are located within Kam Tin Centre which is

already developed on the Site, he has no comment on the application from nature conservation point of view.

### **Environment**

#### 9.1.5 Comments of the Director of Environmental Protection (DEP):

He has no objection to the application provided that the proposed nursery / kindergarten is properly designed and provided with adequate mitigation measures to minimize any traffic noise impacts.

### **Drainage**

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

He has no in-principle objection to the application from the public drainage point of view given the development is located in an existing premises.

### **Fire Safety**

#### 9.1.7 Comment of the Director of Fire Services (D of FS):

- (a) He has no objection in-principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority.

### **Building Matters**

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

- (a) The school is subject to the issue of a licence / registration. The applicant is reminded that any proposed building works at the Premises intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (b) Two independent means of escape shall be provided for the exclusive use of the occupants of the proposed school. Attention is drawn to the Practice Note for Authorised Persons and Registered Structural Engineers (APP-43).
- (c) Adequate provisions of sanitary fitments under the EO and capacity of the existing exit staircases under the Buildings Ordinance (BO) should be ensured to cater the additional persons, if any, due to the conversion.

- (d) If the school involves building works not exempted under the BO, then the Authorised Person (AP) / Registered Structural Engineer (RSE) shall submit the necessary building / structural plans formally to the BD for approval and consent prior to commencement of works. Should the AP / RSE confirm the works fall into the Minor Works Control System (MWCS), then the school may proceed with the works under the MWCS. For details of the submission procedure under the MWCS, the school may wish to visit BD's website at [www.bd.gov.hk](http://www.bd.gov.hk).

### **Electricity**

#### 9.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the development from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the 'Code of Practice on Working near Electricity Supply Lines' established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **District Office's Comments**

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

His office has not received any comment from the locals on the application.

#### 9.2 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories West, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

## **10. Public Comment Received During the Statutory Publication Period**

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.1.2018, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for school (nursery/ kindergarten) use at first floor of the Kam Tin Centre falling with the “V” zone. The planning intention of the “V” zone is primarily intended for development of Small Houses by indigenous villagers. 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 New Territories Exempted House, while other commercial, community and recreational uses may be permitted on the application to the Board. The application involves the conversion of the first floor of the existing Kam Tin Centre. DLO/YL of LandsD advises that no Small House application has been approved or under processing at the Site where the Premises is located.
- 11.2 The development occupies a total floor area of 460m<sup>2</sup> in the first floor of an existing building. The applied school use within the Kam Tin Centre is compatible with other non-domestic uses in the same building, and not incompatible with the surrounding areas which are predominantly village type developments and will not adversely affect the existing village character of the area. SED has no adverse comment on the planning application from educational perspective. According to the applicant, the school (kindergarten / nursery) is to serve the local in Kam Tin area.
- 11.3 In view of the scale and nature of the use, the applied school (nursery / kindergarten) development would unlikely cause any significant traffic, drainage, and environmental impacts on the surrounding areas. Relevant Government departments consulted including C for T, CE/MN of DSD and DEP have no adverse comment on the application. The technical requirements of D of FS could be addressed by approval conditions (a) and (b) in paragraph 12.2 below.
- 11.4 There is a previous planning application (No. A/YL-KTN/550) for the same use submitted by the same applicant as the current application which was approved by the Committee on 3.3.2017. However, the application was revoked on 3.9.2017 due to non-compliance of approval condition in relation to the submission of proposals for FSIs and water supplies for fire fighting. In the current application, the applicant has submitted information showing the provision of FSIs at the premises and agreed to comply with the planning conditions if the application is approved. There is no change in the applied use, area and layout as compared with the previous approved application. There is also no change in planning circumstances and sympathetic consideration could be given to the application. In this regard, shorter compliance periods are recommended to monitor the progress on compliance with approval conditions should the Committee decide to approve the application. Moreover, the applicant would be advised that sympathetic consideration would not be given to any further application if the planning permission is revoked again due to non-compliance with approval conditions.



11.5 No public comment was received during the statutory publication period.

## **12. Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11, 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 school (nursery / kindergarten) use under application is already in operation. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) the submission of proposals for fire service installations and water supplies for fire fighting within **3** months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.4.2018;
- (b) in relation to (a) above, the provision of fire service installations and water supplies for fire fighting within **6** months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.7.2018; and
- (c) if any of the above planning condition (a) or (b) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

### Advisory Clauses

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

12.3 There is no strong reason for 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**

<b>Appendix I</b>	Application form with plans received on 8.12.2017
<b>Appendix Ia</b>	FI received on 10.1.2018
<b>Appendix II</b>	Previous application covering the application premises
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan (1/F)
<b>Drawing A-2</b>	FSIs Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4d</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2018**