RNTPC Paper No. A/YL-KTS/756A For Consideration by the Rural and New Town Planning Committee on 16.3.2018

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/756

<u>Applicant</u>	:	Hong Kong African Association represented by Chief Force Limited
<u>Site</u>	:	Government Land in D.D. 106, Kam Tin, Yuen Long (Former Shek Wu School)
<u>Site Area</u>	:	1,137 m ² (about)
Land Status	:	Government Land
<u>Plan</u>	:	Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
		[Approved Kam Tin South OZP No. S/YL-KTS/13 at the time of submission of the application]
Zoning	:	"Village Type Development" ("V") [maximum building height of 3 storeys (8.23m)]
		[Same zoning and development restrictions on the approved Kam Tin South OZP No. S/YL-KTS/13 and the draft Kam Tin South OZP No. S/YL-KTS/14]
Application	:	Proposed Temporary Place of Recreation, Sports or Culture for a Period of 3 Years

1. <u>The Proposal</u>

1.1 The applicant seeks planning permission to use the vacant school premises at application site (the Site) for the proposed temporary place of recreation, sports or culture for a period of 3 years. According to the Notes of the OZP, 'Place of Recreation, Sports or Culture' use within the "V" zone requires planning permission from the Town Planning Board (the Board). The Site, which was formerly occupied by a village primary school (i.e. Shek Wu School) that had been closed down in 2014, is currently vacant (**Plan A-2**). The Site is subject to one previous application (No. A/YL-KTS/270) for proposed extension of Shek Wu School, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 15.3.2002 (**Plans A-1**).

- 1.2 According to the applicant, the proposed temporary place of recreation, sports or culture will be served as a community recreation centre for the non-profit-making organization "Hong Kong African Association", to organize various activities related to African culture and arts such as festival celebration and interest classes. The proposed community recreational centre will be open to both members and the public. The two existing single-storey buildings within the Site with a total floor area of about 265m² and height of about 5m will be used as recreation centre and rest room. There will be four volunteers as on-site staff, and it is estimated that the Site would accommodate about 50 participants. The operation hours are between 11 a.m. and 10 p.m. daily. The Site is accessible from Kam Sheung Road via a local track, and two loading/unloading spaces will be provided within the Site. Also, no vehicles exceeding 5.5 tonnes will enter/exit the Site. According to the applicant proposed the use of portable loudspeaker or audio amplification system would be avoid and activities with potential noise will be carried out indoor. The plans showing the layout with fire services installations (FSIs) proposal and vehicular access submitted by the applicant are at **Drawings A-1** to A-3.
- 1.4 In support of the application, the applicant has submitted the following documents:

(a)	Application Form with supplementary information received on 26.9.2017	(Appendix I)
(b)	Further Information (FI) received on 23.10.2017 in response to the comments of the Commissioner for Transport (C for T) (accepted and exempted from publication and recounting requirements)	(Appendix Ia)
(b)	FI received on 8.11.2017 in response to the comments of C for T (accepted and exempted from publication and recounting requirements)	(Appendix Ib)
(c)	FI received on 23.1.2018 in response to the public comments and comments of C for T (accepted and exempted from publication and recounting requirements)	(Appendix Ic)

1.5 As requested by the applicant, the Committee agreed to defer consideration of the application on 24.11.2017 to allow more time for the applicant to prepare FI to address the departmental comments. The applicant submitted FIs providing responses to departmental and public comments to support the application.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary information in **Appendix I** and the FIs received in **Appendices Ia** to **Ic**. They can be summarized as follows:

- (a) The proposed temporary use would be a community recreation centre used by the Hong Kong African Association established in 2014 (a non-profit making organization) for organizing various types of activities to promote African culture and arts for both members and the public. The Association intended to allow the public to understand the African culture and eliminate misunderstanding through various activities such as cultural events and interest classes. The proposed community recreation centre welcomes all members of the public.
- (b) The vehicular trip would only be generated during non-peak hour and would not cause adverse traffic impacts. The applicant would comply with the approval conditions as soon as possible should the application be approved.

3. <u>Compliance with the "Owner's Consent/Notification" Requirements</u>

As the Site involves Government land only, the "owner's consent/notification" requirement 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) is not applicable to the application.

4. <u>Background</u>

- 4.1 The Site is not the subject of any active enforcement action.
- 4.2 The Site is a vacant school premises and was previously served as Shek Wu Public School closed down in 2014 and returned to the Lands Department (LandsD) in 2015. The concerned vacant school is one of the "Vacant School Premises Sites Reviewed under the Central Clearing House Mechanism" and is recommended to be retained for Government, Institution or Community (G/IC) uses.

5. <u>Previous Application</u>

The Site was subject to one previous application (No. A/YL-KTS/270) for the proposed extension of Shek Wu School, which was approved with conditions by the Committee on 15.3.2002 mainly for the consideration that it was in line with the planning intention, would not adversely affect the village character and no adverse departmental comments. The planning permission lapsed on 15.3.2005 and no extension works had been carried out during the planning approval period. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. <u>Similar Application</u>

There is no similar application for temporary place of recreation, sports or culture use within the same "V" zone on the OZP.

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

- 7.1 The Site is:
 - (a) located within the Shek Wu Tong village;
 - (b) fenced off and currently occupied by two single-storey vacant buildings; and
 - (c) accessible via a local track (about 25m) leading from Kam Sheung Road on its east.
- 7.2 The surrounding areas are predominantly rural residential in character with village houses, shops and services, parking of vehicles, storage yards and unused/vacant land:
 - (a) to its immediate east is parking of vehicles; and further east across Kam Sheung Road are residential dwellings/structures, shop and services, and parking of vehicles; and
 - (b) to its south, west and north are predominantly residential dwellings/structures and scattered with plant nursery, cultivated land, storage yards/workshops, shop and services, parking of vehicles and unused/vacant land.

8. <u>Planning Intention</u>

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 the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. <u>Comments from Relevant Government Departments</u>

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) The Site is located on unleased/unallocated Government Land (GL). No permission is given for occupation of GL (about 1,137m² subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
 - (b) The Site is accessible to Kam Sheung Road via GL and private land. His office provides no maintenance works for the GL involved and does not guarantee any right-of-way.
 - (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA.
 - (d) Should the application be approved, the applicant has to apply for a formal approval prior to the actual occupation of the GL. Such application will be considered by the LandsD acting in the capacity as landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
 - (a) He has no comment on the application from the traffic engineering perspective. Should the application be approved, an approval condition stating that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
 - (b) The Site is connected to the public road network via a section of a local access road which is not managed by TD. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- 9.1.3 Comments of the Chief Highway Engineer/ NT West, Highways Department (CHE/NTW, HyD):
 - (a) HyD is not and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Kam Sheung Road.

(b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

- 9.1.4 Comments of the Director of Environmental Protection (DEP):
 - (a) Provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective.
 - (b) The applicant is also advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP to minimize any potential environmental nuisance.

Nature Conservation

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

Since the Site is located within an area zoned "V" and was occupied by a school in the past, he has no comment on the application from the nature conservation point of view.

Landscape

- 9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (a) He has no objection to the application from landscape planning perspective.
 - (b) The surrounding area is predominantly rural in character, comprising of agricultural land, scattered trees, village houses and temporary structures. The proposed use is considered not incompatible with the surrounding landscape character and village setting.
 - (c) According to the site inspection on 11.10.2017, the Site was a vacant school campus with two single-storey structures. Four mature trees in good to very good condition are found within the Site. According to the proposed layout plan, the existing trees are not in conflict with the layout and can be retained on site. There is no other significant landscape resource in proximity and further

significant impact on existing landscape is not anticipated.

- (d) Should the application be approved, approval condition on maintenance of existing trees and landscape planting should be included.
- (e) The applicant is reminded that a Tree Protection Zone should be set up and annual tree risk assessment should be provided for existing trees within the Site as part of maintenance.

Drainage

- 9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) He has no objection in principle to the proposed use from public drainage point of view.
 - (b) Should the application be approved, conditions requiring the submission of a drainage proposal and implementation and maintenance of the drainage proposal for the proposed development to his satisfaction should be included.

Fire Safety

- 9.1.8 Comments of the Director of Fire Services (D of FS):
 - (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
 - (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
 - (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

- 9.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):
 - (a) He has no objection to the application.

(b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Social Welfare

9.1.10 Comments of the Director of Social Welfare Department (D of SW):

Since the application is outside welfare purview, his office is not in the position to comment on the application. As for the public comments received by the Board during the public inspection period requesting for venue for recreational use by the villagers and elderly persons living nearby, his office will review the feasibility to provide welfare facilities, if deemed necessary, when the relevant development parameters are available for SWD's assessment. There are also existing community support services for the elderly in Yuen Long District serving the concerned area.

Public Safety

- 9.1.11 Comments of the Commissioner of Police (C of P):
 - (a) He has no comment to the application.
 - (b) Considerations should be given on the villagers' objection to the application received by the Board during the public inspection period. Should the application be approved, there may be issues affecting public safety if the view of the villagers were not properly addressed.

Others

9.1.11 Comments of the Director of Leisure and Cultural Services (DLCS):

The Site is not reserved for their use and his office has no plan to acquire the Site for any use including venue for elderly's activities. He has no comment on the application and public comments received by the Board.

- 9.1.12 Comments of the Director of Food and Environmental Hygiene (DFEH):
 - (a) If provision of cleansing service for new roads, streets, cycle tracks, footpaths, paved areas etc, is required, FEHD should be separately consulted. Prior consent from FEHD must be obtained and sufficient amount of recurrent cost must be provided to them.
 - (b) Proper licence/ permit issued by his department is required if there is any food business/ catering service/ activities regulated

by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.

(c) If the proposal involves any commercial/ trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/ trading activities, the applicant should handle on their own/ at their expenses.

District Officer's Comments

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

His office has no particular comments on the application and received one comment from a Yuen Long District Council member objecting to the application mainly on the ground that the location of the proposed use is not appropriate; local residents objected to the application and commented that there are African and Southeast Asian people linger in the village causing public safety and environmental hygiene concerns. If the application is approved, the residents are worried that public safety would become worse and cause adverse psychological impacts. In addition, since the vehicular access to the Site involves private land and the locals do not agree with the application, there might be possible land dispute. The same comment was also received by the Board during the statutory public inspection period (**Appendix III-11**).

- 9.2 The following Government departments have no comment on the application:
 - (a) Project Manager (New Territories West), Civil Engineering and Development Department (PM (NTW), CEDD);
 - (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
 - (c) Director of Electrical and Mechanical Services (DEMS); and
 - (d) Senior Executive Officer (Race Relations Unit), Home Affairs Department (SEO(RRU), HAD).

10. Public Comment Received During the Statutory Publication Period

10.1 On 3.10.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 24.10.2017, a total of 108 public comments were received. Except one supporting comment (Appendix III-1), the remaining 107 comments submitted by the Chairman and Vice Chairmen of Pat Heung Rural Committee (PHRC) (Appendix III-2), the village representatives (Appendix III-3), residential representative (Appendix III-4), Indigenous Inhabitant Representatives (with 54 signatures of the villagers)

(Appendix III-5) and residents (samples at Appendices III-6 to III-8; individual letter at Appendices III-9 and III-10) of Shek Wu Tong Tsuen, a Yuen Long District Council member (Appendix III-11), the representative of the Pat Heung Kam Sheung Road Development Concern Group (Appendix III-12), Ever Rich Management Ltd. (a managing company of nearby residential estates) (with 101 signatures) (Appendix III-13) and individual (Appendices III-14 and III-15). A full set of public comments is deposited at the Secretariat of the Board for Members' inspection. Their major grounds of objection are as follows:

- (a) The Former Shek Wu School was funded and the land was donated by the villagers of Shek Wu Tong Tsuen in order to provide education opportunities to the villagers. Due to the lack of recreational and activity venue, Shek Wu Tong Tsuen intends to use the vacant school for place of recreation, sports or culture, and priority should be given to the villagers.
- (b) The Site is very close to the residential cluster and is a suitable location for elderly's activities. The Site is not suitable for the proposed use.
- (c) There are African and Southeast Asian people linger in the village causing public safety and environmental hygiene concerns. If the application is approved, public safety would become worse and cause adverse psychological impacts, and create more conflicts between the locals and the ethnic minorities.
- (d) The surrounding and vehicular access of the Site are private land and would possibly cause land dispute. Given the narrow road in Shek Wu Tong, there would be adverse traffic impact.
- 10.2 The one supporting comment agrees with the proposed use at the Site, but suggests that the premises should not be solely used by the applicant and should be shared by local residents.

11. Planning Considerations and Assessments

11.1 The proposed temporary place of recreation, sports or culture is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages and 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 community and recreational uses may be permitted on application to the Board. Nevertheless, the proposed use is to make use of the site of the Former Shek Wu School which had already been closed down and left vacant. It involves utilizing the two existing single-storey structures of the closed school premises. The concerned vacant school is one of the "Vacant School Premises Sites Reviewed under the Central Clearing House Mechanism" and is recommended to be retained for Government, Institution or Community (G/IC) uses. It is considered that the prospoed use on a temporary basis for 3 years would not frustrate the long-term planning intention of the "V" zone.

- 11.2 The proposed temporary development, adjacent to Kam Sheung Road via a local track (about 25m), is considered not incompatible with the surrounding area which is predominantly rural residential in character with village houses, shops and services, parking of vehicles, storage yards and unused/vacant land.
- 11.3 According to the applicant, the proposed temporary place of recreation, sports or culture would be served as a community recreation centre for organizing various types of activities to promote African culture and arts. It is estimated that the Site would accommodate about 50 participants and the applicant also advised that the use of portable loudspeaker or audio amplification system will be avoid. The proposed use would unlikely cause adverse environmental, traffic, landscape, drainage and fire safety impacts on the surrounding areas. Relevant Government departments consulted, including DEP, C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS, have no adverse comment on the application. To minimize the possible environmental nuisance, approval conditions restricting the operation hours and vehicle types are recommended in paragraph 12.2 (a) and (c) below. In response to DEP's concern on possible noise nuisance, approval condition on restricting public announcement system, portable loudspeaker or audio amplification system at the Site is recommended in paragraph 12.2 (b). Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP in order to minimize any potential environmental impact. The technical concern of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions recommended in paragraph 12.2 (d) to (j).
- 11.4 There are 107 objecting and 1 supporting public comments on the application received during the statutory publication period as mentioned in paragraph 10 above. In this regards, relevant government departments including DEP and C for T have no adverse comments on the application. In respect to the villagers' proposal for using the Site for place of recreation, sports or culture such as elderly activities, DLCS advised that there is no plan to acquire the Site for any use (including elderly activities). DSW advised that they will review the feasibility to provide welfare facilities if necessary and there are existing community support services for the elderly in Yuen Long serving the concerned area. Regarding the concern about public safety and hygiene, C of P and DFEH have no objection to the application. The applicant stated that the proposed community recreation centre will be open to the general public, aiming to promote African culture and eliminate misunderstanding through various activities. An advisory clause is also recommended to advise the applicant to liaise with the local on the proposed use at the Site. The planning considerations and assessments as stated above are also relevant.

12. <u>Planning Department's Views</u>

12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments mentioned in paragraph 10, the Planning Department

considers that the temporary place of recreation, sports or culture <u>could be</u> tolerated for a period of 3 years.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until <u>16.3.2021</u>. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 10:00 p.m. and 11:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portable loudspeaker or audio amplification system is allowed to be used on the Site during the planning approval period;
- (c) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be stored/parked at or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by <u>16.9.2018</u>;
- (g) in relation to (f) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by <u>16.12.2018;</u>
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of fire service installation proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by <u>16.9.2018</u>;
- (j) in relation to (i) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by <u>16.12.2018</u>;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) is not complied with during the planning approval period, the approval hereby

given shall cease to have effect and shall be revoked immediately without further notice;

- (l) if any of the above planning conditions (f), (g), (i) or (j) 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; and
- (m) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached 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 proposed development is not in line with the planning intention of the "V" zone which 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. No strong planning justification has been given in the submission for a departure from the planning intentions, even on a temporary basis.

14. <u>Decision Sought</u>

- 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 period of which the permission should be valid on a temporary basis.
- 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 applicant.

15. Attachments

Appendix I	Application Form with supplementary information received on 26.9.2017
Appendix Ia	FI received on 23.10.2017 in response to the comments of the Commissioner for Transport (C for T)

Appendix Ib	FI received on 8.11.2017 in response to the comments of the C for T
Appendix Ic	FI received on 23.1.2018 in response to the public comments and comments of C for T
Appendix II	Previous applications covering the Site
Appendices III-1 to III-14	Public comments received during the statutory publication period
Appendix IV	Advisory clauses
Drawing A-1	Site Layout Plan with FSIs Proposal
Drawing A-2	Vehicular Access Plan with Loading/Unloading Bay
Drawing A-3	Vehicular Access Plan leading to Kam Sheung Road
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a – 4b	Site Photos

PLANNING DEPARTMENT MARCH 2018