

RNTPC Paper No. A/YL-KTS/817  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 22.3.2019

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

**APPLICATION NO. A/YL-KTS/817**

<b><u>Applicant</u></b>	: The Pat Heung Vegetable Marketing and Credit Co-Operative Society Limited
<b><u>Site</u></b>	: Lot 365 S.A in D.D. 106, 173 Shek Wu Tong Tsuen, Kam Sheung Road, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 94m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	: Temporary Vegetable Collection Station for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary vegetable collection station for a period of 3 years. The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is subject to 6 previous applications (No. A/DPA/YL-KTS/89, A/YL-KTS/165, 177, 386, 568 and 671). The last three applications for the same applied use and submitted by the same applicant as the current application were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2006 and 2015. However, the last approved application (No. A/YL-KTS/671) was revoked on 8.3.2016 due to non-compliance with approval condition on submission of record of existing drainage facilities.
- 1.3 According to the applicant, there are three single-storey structures at the Site with building height of 3.8m and total floor area of 58.46m<sup>2</sup> for vegetable collection

point, office and storage of baskets. The operation hours are between 7:00 a.m. and 12:00 p.m. daily, including public holiday. In terms of operation, vegetables will be collected at the Site and delivered to the wholesale vegetable market in Cheung Sha Wan by light goods vehicle. Site cleaning and administration works will be carried out at the Site afterwards. A loading/unloading space for light goods vehicle of 5.5 tonnes is provided within the Site. The Site is accessible to Kam Sheung Road via Shek Tin Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 Compared with the previous approved application (No. A/YL-KTS/671), there is no change in the applied use, site area, floor area and layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with plan and attachment received on 1.2.2019 **(Appendix I)**
  - (b) Further Information (FI) received on 4.3.2019 providing operation details and response to departmental comment **(Appendix Ia)**
  - (c) FI received on 5.3.2019 providing minor clarifications **(Appendix Ib)**

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

The justifications put forth by the applicant in support of the application are detailed in section 9 of the application form at **Appendix I** and the FIs at **Appendices Ia to Ib**. They can be summarized as follows:

- (a) The applicant's Co-operative Society has been established since 1962 which serves the local farmers by collecting and delivering vegetables for sell and providing fertilizers and pesticides. The applied use can help support the living of farmers and provide good quality vegetable to the public. The Co-operative Society is a non-profit making organization and one of the 26 co-operative societies under the supervision of the Agriculture, Fisheries and Conservation Department.
- (b) The development has not caused environmental pollution or nuisances to the nearby residents over the years. Adverse traffic impact is not anticipated.
- (c) The applicant stated that he has complied with the approval conditions in previous approvals. He did not comply with the approval conditions in the last approved

application as he did not receive the approval letter from the Town Planning Board (the Board).

### 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 the subject of any outstanding enforcement action. Investigation is underway to ascertain whether the current use on the Site constitutes an unauthorized development (UD). Should there be sufficient evidence to prove that UD takes place on site, enforcement action would be taken.

### 5. **Previous Applications**

- 5.1 The Site was involved in six previous applications (No. A/DPA/YL-KTS/89, A/YL-KTS/165, 177, 386, 568 and 671). Details of the applications are in **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Applications No. A/DPA/YL-KTS/89<sup>1</sup> (for storage and workshop of vehicles) and A/YL-KTS/177 (for temporary open storage of construction materials) both involving a larger site were rejected by the Committee in 1994 and 1999 respectively mainly on the grounds that the proposed development was not in line with the planning intention; not compatible with the surrounding areas with village settlements in the vicinity; and approval of the application would set an undesirable precedent.
- 5.3 Application No. A/YL-KTS/165 involving a larger site for proposed restaurant was approved with conditions in 1999 for the reasons that the proposed development was not incompatible with the surrounding village type developments; it would help provide catering services to serve the local residents; and generally complied with Town Planning Board Guidelines for ‘Application for Restaurant Use within “V” in Rural Area’.
- 5.4 Applications No. A/YL-KTS/386, 568 and 671 submitted by the same applicant for the same use as the current application were approved with conditions by the Committee on 20.10.2006, 7.9.2012 and 21.8.2015 respectively for the reasons

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<sup>1</sup> The application site was zoned “Unspecified Use” on the approved Kam Tin South Development Permission Area Plan No. DPA/YL-KTS/2.

that the proposed development was not incompatible with the surrounding areas of rural character; and would unlikely generate adverse environmental and traffic impacts given its nature and small scale of operation. The applicant has complied with the approval condition on drainage aspect under application No. A/YL-KTS/386 but he had not implemented the accepted fire services installations proposal. Nevertheless, all the approval conditions including those related to drainage and fire safety aspects under application No. A/YL-KTS/568 were complied with. For the last approved application No. A/YL-KTS/671, the permission was revoked on 8.3.2016 due to non-compliance with approval condition related to submission of existing drainage facilities record.

## **6. Similar Application**

There is no similar application within the same “V” zone on the OZP.

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

7.1 The Site is:

- (a) current used for the applied use without valid planning permission; and
- (b) accessible to Kam Sheung Road via Shek Tin Road.

7.2 The Site falls within the village cluster of Shek Wu Tong and surrounded by residential structures/dwellings, some of which with shop and services uses on the ground floor, intermixed with scattered parking of vehicles, open storage/storage yards and workshops. The open storage/storage yards, workshops and parking of vehicles are suspected unauthorized development subject to enforcement action by the Planning Authority (**Plan A-2**).

## **8. Planning Intention**

The planning intention of the “V” 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) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible to Shek Tin Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) 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 the LandsD.
- (e) There is no Small House application approved or currently under processing at the Site.

## **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.
- (b) Should the application be approved, approval condition on 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.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (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) His department does not and will not maintain any access connecting the Site and Kam Sheung Road. The applicant should be responsible for his own access arrangement.
- (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):

There was no environmental complaint concerning the Site received in the past 3 years. The applicant is 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 nuisances.

### **Agriculture**

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

He is in favour of the application from the agricultural point of view.

### **Drainage**

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

- (a) Given the Site has an area of only 94m<sup>2</sup>, he has no objection in principle to the development from the public drainage point of view.
- (b) The applicant is reminded to provide his own drainage facilities to collect the runoff generated from the Site or passing through the Site, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities. The applicant should consult DLO/YL and seek consent from relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works.

### **Fire Safety**

9.1.7 Comments 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) 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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs 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.

**Building Matters**

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

- (a) As there is no record of approval 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.
- (b) If the existing structures (not being a NTEH) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.



### **Environmental Hygiene**

9.1.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department (FEHD)'s facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the such activity/operation, the applicant should arrange disposal properly at her own expenses.
- (c) Proper licence/ permit issued by FEHD is required if there is any catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

### **District Officer's Comments**

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

He has not received any comments from locals upon close of consultation and he has no particular comments on the application.

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

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

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

On 12.2.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.3.2019, no public comment was received.

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

- 11.1 The application is for a temporary vegetable collection station for period of 3 years in “V” zone. 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. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of the “V” zone. Nevertheless, it could serve the local farmers and DAFC is in favour of the application from the agricultural point of view. DLO/YL, LandsD also advises that there is no small house application approved or under processing at the Site. It is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 The Site falls within the village cluster of Shek Wu Tong. The applied use is considered not incompatible with the surrounding areas which are predominated by residential developments/dwellings, some of them with shop and services uses on the ground floor, intermixed with some other uses.
- 11.3 The temporary vegetable collection station involves a site area of about 94 m<sup>2</sup> and floor area of 58.46 m<sup>2</sup>. In view of its nature and small scale of the operation, the development is not expected to cause any significant adverse environmental impact on the surrounding areas. There was no environmental complaint received at the Site in the past three years. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and types of vehicles are recommended in paragraph 12.2 (a) and (b) below. The applicant will also be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP. The technical requirements of C for T and D of FS could be addressed by imposing approval conditions (c) to (e) in paragraph 12.2 below.
- 11.4 The Site is subject to 6 previous planning applications. The last three (No. A/YL-KTS/386, 568 and 671) for the same use and submitted by the same applicant as the current application were approved with conditions by the Committee between 2006 and 2015. For application No. A/YL-KTS/568, all approval conditions including those on drainage and fire safety aspects have been complied with. However, the last approved application No. A/YL-KTS/671 was revoked on 8.3.2016 due to non-compliance with approval condition related to drainage aspect. In this regard, the applicant has submitted drainage facilities record in the current application. Concerned departments have no adverse comment on the application. Hence, sympathetic consideration could be given to

the current application. Shorter compliance periods are recommended to monitor the progress of compliance should the Committee decide to approve the current application. Moreover, the applicant would be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.

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 considers that the temporary vegetable collection station could be 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 22.3.2022. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members' reference:

### **Approval Conditions**

- (a) no operation between 12:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.6.2019;
- (e) in relation to (d) above, the implementation of fire service installations 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 22.9.2019;
- (f) if any of the above planning conditions (a), (b) or (c) 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; and

- (g) if any of the above planning conditions (d) or (e) 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 at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the 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. No strong planning justification has been given in the submission for a departure from the planning intentions, even on a temporary basis.

**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 period of which the permission should be valid on a temporary basis.
- 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** Application form with plans received on 1.2.2019
- Appendix Ia** FI received on 4.3.2019 providing minor clarification and response to departmental comments

<b>Appendix Ib</b>	FI received on 5.3.2019 providing minor clarifications
<b>Appendix II</b>	Previous applications covering the Site
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2019**