

RNTPC Paper No. A/YL-PH/816  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 4.10.2019

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

**APPLICATION NO. A/YL-PH/816**

- Applicant** : Mr. Lam Wai Dan represented by Lanbase Surveyors Limited
- Site** : Lot 336 S.D, 336 S.H and 336 RP (Part) in D.D.111, Pat Heung, Yuen Long
- Site Area** : About 248m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)  
[maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for proposed temporary shop and services use for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is not the subject of any previous application and is currently vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, one structure with a total floor area of about 66m<sup>2</sup> and building height of 5m (one storey) will be erected for shop and services use within the Site. Shop and services uses such as retail shop, fast food shop and commercial services to serve the local community will be provided. The operation hours are between 8:00 a.m. and 11:00 p.m daily, including public holidays. The Site is accessible via a local track connecting to Fan Kam Road, and one loading/unloading space for light goods vehicle will be provided. Layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with a planning statement and plans received on 8.8.2019 **(Appendix I)**
- (b) Further Information (FI) received on 17.9.2019 providing responses to departmental comments **(Appendix Ia)**  
*(exempted from publication)*
- (c) FI received on 27.9.2019 providing clarification on the proposed development's design and further justifications **(Appendix Ib)**  
*(exempted from publication)*

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

The justifications put forth by the applicant in support of the application are detailed in the planning statement and FIs in **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed use does not contravene the planning intention of the “V” zone, and its temporary approval will not jeopardize the future long term planning of the area. Also, the proposed use is similar to the scale of a ground floor of a New Territories Exempted House (NTEH) which is always permitted in the “V” zone.
- (b) There are applications for similar uses in the “V” zone in the Pat Heung area approved by the Board. There are also shops and services and eating places nearby. Therefore the proposed use is compatible with the surrounding area.
- (c) There is an inadequate number of local shops and services serving the local community. The proposed use will provide more choices to serve the local residents' daily needs.
- (d) The applied use would not generate adverse visual, environmental and traffic impacts. The Site will be separated from the adjacent village house with exclusive entrance. The owners of the adjacent lots (partly owned by the applicant) also have no objection to the proposed use.

## 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. 31A) by posting site notice and sending notification to Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is not the subject of active enforcement action.

**5. Previous Application**

There is no previous application covering the Site.

**6. Similar Applications**

6.1 There are 5 similar applications (No. A/YL-PH/672, 708, 744, 788 and 813) for various temporary shop and services (for real estate agency, convenience store and storage, and daily supplies and food retail shop) within the same “V” zone on the OZP. Details of the application are summarised in **Appendix II** and the locations of the application sites are shown on **Plan A-1**.

6.2 All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2013 and 2019, mainly for reasons that the proposed development would not frustrate the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding land uses; relevant departments had no adverse comment; and technical concerns could be addressed by appropriate approval conditions. However, application No. A/YL-PH/708 was revoked due to non-compliance with the approval conditions.

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

7.1 The Site is:

- (a) currently vacant and hard paved, and shares the same fence with the two houses to its west; and
- (b) accessible via a local track connecting to Fan Kam Road.

7.2 The surrounding areas are generally rural in character, mainly consisting of residential dwellings / structures, fallow agricultural land, a real estate agency, open storage of vehicles, parking of vehicles, restaurant, and vacant / unused land. The open storage of vehicles and restaurant are suspected unauthorized developments subject to enforcement by the Planning Authority:

- (a) to its immediate west and north are residential dwellings / structures and a stream course is located to the south across a local track;
- (b) to its east are fallow agricultural land. To its further north and south are residential dwellings / structures and unused land; and

- (c) to its west along Fan Kam Road are some vehicle parks, an open storage yard, a real estate agency (with valid planning permission under Application No. A/YL-PH/813) and a restaurant.

## **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 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 Old Schedule Agricultural Lots 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 from Fan Kam Road via Government Land (GL) and private land. 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 the application be approved, 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 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 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 which is not managed by Transport Department. 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) If the proposed run-in is agreed by TD, the applicant should provide the run-in/out at Fan Kam Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) His department is not / shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

### **Environment**

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

- (a) There were two environmental complaints related to waste aspect concerning the Site received by DEP in the past three years.
- (b) 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.

### **Nature Conservation**

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

- (a) He has no adverse comment on the application.
- (b) The Site falls within the “V” zone and is hard-paved. Nevertheless, there is a semi-natural stream to the south of the Site, where the protected *Paramesotriton hongkongensis* (香港瘰螈) have been recorded according to previous ecological surveys. The applicant should be advised to minimize the potential disturbance and pollution to the nearby stream during construction and operation of the proposed use.

### **Drainage**

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the applicant to submit drainage proposals and to implement and maintain the drainage proposals for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) The applicant is advised that the drainage proposal should show how the flow paths of overland flow from and / or across the Site could be intercepted and disposed of properly without inducing adverse drainage impact to both surrounding areas, the Site and the adjacent stream course. The applicant is also advised to demonstrate that no site formation works had been / will be

carried out that will adversely affect the adjacent streamcourse.

### **Fire Safety**

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

- (a) He has no in-principle objection to the application 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 (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) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the Buildings Department (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.
- (c) 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) Regulations (B(P)R) respectively.

- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Food and Environmental Hygiene**

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surroundings.
- (b) For any waste generated from the business, the applicant should arrange disposal properly at their own expense.
- (c) Proper license / 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 comment from locals upon close of consultation and has no particular comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager (West), West Development Office, Civil Engineering and Development Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

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

- 10.1 On 27.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from a local resident (**Appendix III**).



- 10.2 The comment objects to the application mainly on the grounds that the proposed use would result in adverse traffic and sewerage impacts, noise and hygiene problems and cause nuisance to the nearby residents.

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

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “V”. 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 proposed development is not entirely in line with the planning intention of the “V” zone. Nonetheless, DLO/YL of LandsD advises that there is currently no Small House application approved or under processing at the Site. According to the applicant, the proposed use is intended to serve the local community. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed use with a small scale is considered not incompatible with the surrounding land uses, which mainly consist of residential dwellings / structures and fallow agricultural land.
- 11.3 Relevant developments consulted, including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. In view of its nature and scale, the proposed use is unlikely to generate significant environmental nuisance. To minimize any possible environmental nuisance generated by the proposed development, approval conditions restricting operation hours and types of vehicles used are recommended in paragraphs 12.2 (a) and (b) below. Any non-compliance with the approval condition 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 be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (h) below.
- 11.4 There are 5 similar applications for temporary shop and services uses in the same “V” zone approved by the Committee between 2013 and 2019 as detailed in paragraph 6.2 above. Approval of the current application is in line with the Committee’s previous decision.
- 11.5 One public comment has been received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments as stated above are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comment in paragraph 10, the Planning Department has no objection to the proposed temporary shop and services 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 4.10.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 11:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are 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 a run-in/out proposal at Fan Kam Road within **6** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 4.4.2020;
- (e) in relation to (d) above, the implementation of the run-in/out proposal at Fan Kam Road within **9** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 4.7.2020;
- (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 4.4.2020;
- (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 4.7.2020;
- (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 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 4.4.2020;

- (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 4.7.2020;
- (k) if any of the above planning conditions (a), (b), (c) 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; and
- (l) if any of the above planning conditions (d), (e), (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.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

- 12.3 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 re-provisioning 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 to justify a departure from the planning intention, 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**

<b>Appendix I</b>	Application form with a planning statement and plans received on 8.8.2019
<b>Appendix Ia</b>	FI received on 17.9.2019
<b>Appendix Ib</b>	FI received on 27.9.2019
<b>Appendix II</b>	Similar applications within the same “V” zone on the Pat Heung OZP
<b>Appendix III</b>	Public comment received during the statutory public inspection period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2019**