

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/828

<u>Applicant</u>	: Hong Kong Telecommunications (HKT) Limited represented by Jeg Engineering Company Limited
<u>Site</u>	: Lot 235 RP (Part) in D.D. 103, Ko Po Tsuen, Yuen Long
<u>Site Area</u>	: 11.56 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/15
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Public Utility Installation (Radio Base Station and Antennae)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed public utility installation (radio base station and antennae). According to the Notes of the OZP, ‘Public Utility Installation’ is a Column 2 use in the “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site and the adjoining land is currently used for car repair workshop (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-KTS/66) for alteration to and relocation of structures in an existing open storage of vehicles and vehicle parts, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 28.2.1997.
- 1.3 The proposed development involves construction of a concrete footing (11.56m²) to accommodate a radio base station with an antenna pole of 12.3m high with 5 antennas and a number of equipment units and cabinets of maximum height of about 2.27m. Excavation of land (0.675m depth) for stability of the concrete footing is also proposed.

- 1.4 According to the applicant, the existing car repair workshop at the Site will be cleared for the proposed use. The remaining area of the car repair workshop adjoining the Site will be retained. Maintenance work of the proposed radio base station to be carried out at the Site will be once per month. No vehicular access is required for the proposed use. The Site can be accessed from Kam Tin Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information **(Appendix I)** received on 24.7.2019
 - (b) Further Information (FI) received on 20.11.2019 in **(Appendix Ia)** response to departmental comments
[exempted from publication]
 - (c) FI received on 31.12.2019 in response to departmental **(Appendix Ib)** comments
[exempted from publication]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary information and FI at **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed radio base station is to enhance the mobile phone coverage at Yuen Long, serving area covering Ko Po Tsuen, Kam Po Garden, Riva, Kam Tin Road, Ko Po San Tsuen and nearby village houses.
- (b) The original radio base station in Ko Po Tsuen was terminated due to repossession of the land by the land owner and the mobile signal is weak in the vicinity. There is no other suitable location for radio base station in the area. Since no building at the Site can be used to install the proposed facilities, an antenna tower instead of general antenna design commonly found on building is proposed. The proposed height of 12.3m of the antenna pole is the minimum height of the radio base station to serve the vicinity.
- (c) The applicant has obtained the landowner's consent to use the Site for 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 sending notice to the landowner by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not the subject of any outstanding enforcement case.

5. **Previous Application**

The Site is the subject of a previous planning application (No. A/YL-KTS/66) which covered a larger area for alteration to and relocation of structures in an existing open storage of vehicles and vehicle parts. The application was approved with conditions by the Committee on 28.2.1997 mainly for the reasons that the applied use was an “existing use” under the Town Planning Ordinance and had to be tolerated; there was no change to the “existing use” at the site as approval of the application only covered ancillary structures within the site; and the overall operation and environment at the site could be improved with incorporation of suitable planning conditions. Details of the 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 public utility installation within the same “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) paved and forming part of a car repair workshop; and
- (b) accessible from Kam Tin Road via a local track.

7.2 The surrounding areas are rural in character predominated by a mixture of open storage yards, parking of vehicles, residential dwellings/structures, vacant/unused lands, shops and restaurants. Some of the open storage/storage yards and parking of vehicles are suspected unauthorized development subject to enforcement action by the Planning Authority (**Plan A-2**):

- (a) immediately adjoining the Site is a car repair workshop. To its east are open storage yards and parking of vehicles. To its further west are

open storage yard, a local track and unused land. To its south is unused land and Tsing Long Highway; and

- (b) to its north is Kam Tin Road. Across Kam Tin Road are residential dwellings/structures (including Ko Po Tsuen and a residential estate (The Riva)), shops, restaurants and parking of vehicles.

8. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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) Lot No. 235 RP in D.D.103 is covered by Short Term Waiver (STW) No. 2415 to permit structures erected thereon for the purpose of “dismantling and storage of vehicles and vehicle parts”.
- (c) The Site is accessible from Kam 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.
- (d) 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.
- (e) Should planning approval be given to the application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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 the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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 LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

He has no comment on the application considering that there is neither parking provision nor vehicular access to the Site and the induced traffic impact is minimal.

9.1.3 Comments of the Chief Engineer, New Territories West, Highways Department (CHE/NTW, HyD):

It is noted from the applicant's submission that no vehicular access is proposed or to be granted under the application. He has no comment from highways maintenance point of view. If the application is approved, it is on the understanding that there is and will be no vehicular access to/from the Site.

Environment

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

He has no objection to the application. In view of the small scale and nature of the proposed development, it will unlikely cause major pollution.

Agriculture

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

The Site is currently occupied and surrounded by temporary structures. As the Site possesses low potential for agricultural rehabilitation, he has no strong view against the application.

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 the landscape planning point of view.
- (b) Based on the aerial photo of 2018, the surrounding area of the Site is of rural fringe landscape character. The surrounding area is comprised of temporary structures, open storage, low-rise village houses and clusters tree groups. The proposed use is considered not incompatible with the landscape setting in proximity.
- (c) According to the aerial photo of 2018, no landscape resources are found within the Site. The proposed development only occupies an area of 3.4m x 3.4m and further significant adverse landscape impact arising from the proposed development is not anticipated.
- (d) In consideration that there is inadequate space for meaningful landscape within the Site, landscape condition in planning permission is not recommended should the application be approved by the Board.

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 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.
- (c) The applicant is also reminded to consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works.

Health

9.1.8 Comments of the Director of Health (D of Health):

According to the World Health Organization (WHO), with compliance with the relevant International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines, exposure to radiofrequency electromagnetic fields, such as those generated by

telecommunication facilities, would not pose any significant adverse effects to workers and the public. As such, the project proponent must ensure that the installation complies with the relevant ICNIRP guidelines or other established international standards. WHO also encourages effective and open communication with stakeholders in the planning of new telecommunication facilities.

Building Matters

9.1.9 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 the suitability for the use proposed in the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings and site formation such as excavations) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (c) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are UBW under the BO and should not be designated for any proposed use under the application.
- (d) 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.
- (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) Regulations (B(P)R) respectively.
- (f) 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.

- (g) Detailed comments under the BO will be provided during the plan submission stage.

Fire Safety

9.1.10 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to the provision of water supplies for firefighting and fire service installations to his satisfaction.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.
- (c) The emergency vehicular access provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the B(P)R 41D which is administered by the BD.

District Officer's Comments

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

He has not received any comments from locals and has no comments on the application from departmental point of view.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Director-General of Civil Aviation;
- (c) Director-General of Communications (DG of C);
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
- (e) Project Manager (West), Civil Engineering and Development Department;
- (f) Chief Engineer/Construction, Water Supplies Department; and
- (g) Commissioner of Police.

10. Public Comment Received During Statutory Publication Period

On 6.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed public utility installation (radio base station and antennae) within “AGR” zone. The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not in line with the planning intention of the “AGR” zone. Nevertheless, DAFC has no adverse comment on the application from agricultural point of view as the Site possesses low potential for agricultural rehabilitation. According to the applicant, the proposed development is intended to improve the mobile phone coverage in the surrounding area.
- 11.2 The Site falls within a narrow strip of “AGR” zone sandwiched between Kam Tin Road and Tsing Long Highway. The proposed development only involves an area of about 11.56m² and comprises a pole of 12.3m with antennae and some equipments. It is considered not incompatible with the surrounding areas which are rural in character predominated by a mixture of open storage yards, parking of vehicles and vacant/unused lands in the strip of “AGR” zone.
- 11.3 Relevant departments consulted, including C for T, CTP/UD&L of PlanD, CE/MN of DSD, DEP, D of Health, DG of C and D of FS have no adverse comment on the application. DEP considers that the small-scale development will unlikely cause major pollution. CTP/UD&L of PlanD has no objection to the application from the landscape planning point of view. The technical requirement of D of FS could be addressed by approval condition in paragraph 12.2 below.
- 11.4 There is no public comment received during the statutory public inspection period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 17.1.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

the design and provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' consideration:
- (a) the proposed development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification has been given in the submission for a departure from the planning intention; and
 - (b) approval of the application would set an undesirable precedent for other similar applications in the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

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

Appendix I	Application form with supplementary information received on 24.7.2019
Appendix Ia	FI received on 20.11.2019
Appendix Ib	FI received on 31.12.2019
Appendix II	Previous application covering the Site
Appendix III	Advisory Clauses

Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2020**