

RNTPC Paper No. A/YL-NTM/383
For Consideration by
the Rural and New Town
Planning Committee
on 8.3.2019

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-NTM/383

- Applicant** : The Sun Yau Vegetable Marketing Co-operative Society Limited
- Site** : Government Land (GL) in D.D. 104, Chun Shin Road, Ngau Tam Mei, Yuen Long
- Site Area** : About 25.1 m²
- Land Status** : GL
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Comprehensive Development Area” (“CDA”)
- Application** : Renewal of Planning Approval for Temporary Vegetable Collection and Transfer Station for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue to use the application site (the Site) for temporary vegetable collection and transfer station for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “CDA” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes of OZP, temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with valid planning permission under application No. A/YL-NTM/333. The planning permission is valid until 18.3.2019.
- 1.2 The Site is the subject of 2 previously approved applications Nos. A/YL-NTM/281 and 333 (**Plan A-1**) submitted by the current applicant for the same use. The previous application No. A/YL-NTM/333 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 18.3.2016 for a period of 3 years up to 18.3.2019. All approval conditions have been complied with.
- 1.3 The Site abuts Chun Shin Road. The location plan and layout plan are at **Drawings**

A-1 and **A-2** respectively. The development parameters of the current application are the same as the previously approved application (No. A/YL-NTM/333) except a shortened operation time and the involvement of light goods vehicle (LGV), and are summarised as follows:

	Previous Application No. A/YL-NTM/333	Current Application No. A/YL-NTM/383	Differences
Site Area	About 25.1 m ²	same	-
Applied Use	Temporary Vegetable Collection and Transfer Station for a Period of 3 Years	same	-
No. of Structures (Building Height)	1 container (2.4m) for storage of baskets and public pound	same	-
Total Floor Area	About 10.7 m ²	same	-
Operation Hours	7:00 a.m. to 10:00 a.m. daily, closed on first two days of each Lunar year	7:00 a.m. to 10:00 a.m. Mondays to Saturdays, closed on Sundays and first two days of each Lunar year	Operation time revised: closed on Sundays
Trips to Cheung Sha Wan Wholesale Vegetable Market	1 daily trip of medium goods vehicle (MGV)	1 daily trip of LGV	MGV replaced by LGV

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

- (a) Application form received on 9.1.2019 **(Appendix I)**
- (b) Letter dated 15.1.2019 providing clarification on the background information **(Appendix Ia)**
- (c) Further Information (FI) dated 18.2.2019 providing clarification on the traffic arrangement **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of Application Form at **Appendix I**, letter at **Appendix Ia** and FI at **Appendix Ib**. They can be summarized as follows:

- (a) The Co-operative Society serves members and villagers who are mainly elderly. The applied use is beneficial to the elderly as the proposed use serves as a transfer station for farm products, therefore saving the elderly' efforts to take a long journey (20 to 30 minutes) to transport the farming products/vegetables by cart wheels to the main transfer station in Ngau Tam Mei Tsuen.
- (b) There will be only one daily trip of the LGV to collect vegetables from the station and the traffic impact is minimal.
- (c) All approval conditions under the previous applications (i.e. only submission and implementation of fire service installations (FSIs) proposal) have been complied with.

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

As the Site involves GL only, the “owner’s consent/notification” 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) is not applicable to the application.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B) are relevant to this application.
- 4.2 The criteria for assessing applications for renewal of planning approval include:
 - (a) whether there has been any material change in planning circumstance since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.

4.3 Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

6.1 The Site is the subject of 2 previous applications (Nos. A/YL-NTM/281 and 333) submitted by the same applicant for the same use, which were approved with conditions by the Committee for periods of 3 years on 25.1.2013 and 18.3.2016 respectively, mainly on the consideration that the proposed developments were to serve the needs of local farmers and would not have adverse impacts on surrounding areas. All approval conditions of the last application were complied with and the permission is valid until 18.3.2019.

6.2 Details of the applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

7. **Similar Application**

There is no similar application within “CDA” zone on the Ngau Tam Mei OZP.

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

8.1 The Site is:

- (a) accessible directly to Chun Shin Road which is connected to San Tin Highway; and
- (b) currently used for the applied use with valid planning permission under approved application No. A/YL-NTM/333.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is Chun Shin Road and a nullah. Further north across the nullah are orchard, agricultural land, scattered residential dwellings, open

storage yard of construction materials, unused land and temporary fish farming use approved under application No. A/YL-NTM/367;

- (b) to its south-east, south and south-west are agricultural land, orchard, scattered residential dwellings and unused/vacant land; and
- (c) to its west are an abandoned pets centre, agricultural land and vacant/unused land.

9. Planning Intention

The planning intention of the “CDA” zone is intended for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) Without recent inspection, his comments based on the applicant’s information are as follows:
 - (i) a portion of the GL (about 13m²) of the Site is covered by Short Term Tenancy (STT) No. 2736 for the purpose of “Temporary Vegetable Collection and Transfer Station”;
 - (ii) no permission is given for occupation of the remaining GL with an area of about 12.1m² (subject to verification) included in the Site. The act of occupation of the remaining GL without Government’s prior approval is not allowed;
 - (iii) the Site is accessible from Chun Shin Road through GL. LandsD provides no maintenance work for the GL involved and does not guarantee any right-of-way over GL to the Site; and
 - (iv) the Site does not fall within Shek Kong Airfield Height Restriction Area.

- (b) Should planning approval be given to the application, the STT holder will need to apply to LandsD for modification of the STT conditions where appropriate. The applicant has to either exclude the remaining GL from the Site or apply for a formal approval prior to the actual occupation of the remaining GL. 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. Application(s) for any of the above will be considered by LandsD acting in the capacity of 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

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

He has no comment on the application from traffic engineering point of view.

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

- (a) It is noted from the application that no run-in/out and direct vehicular access to the Site are proposed.

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

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazetted railway scheme boundary, nor railway protection boundary of heavy rail systems. As such, he has no comment on the application from railway development viewpoint.

Environment

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

- (a) The applicant is seeking for planning approval to continue the current business of vegetable collection and transfer station for a period of 3 years. The Site is about 25 m² in "CDA" zone on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. Compared to the previous application, the operating time is shortened.

- (b) His previous comment remains valid, i.e. given the small-scale development, the short operating time and an enclosed container is available, the proposed use will unlikely cause adverse environmental impact or environmental nuisance. As such, he has no adverse comment on the application.
- (c) No environmental complaint pertaining to the Site has been received over the past 3 years.

Nature Conservation

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

He supports the renewal application from agricultural perspective, as the Co-operative Society has operational need for the current use.

Fire Safety

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

- (a) He has no objection to the application as relevant fire safety requirements are deemed to be complied with.
- (b) 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

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

Noting that the temporary vegetable collection and transfer station is located on GL, he is not in a position to comment the application.

Drainage

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

Given that the proposed development only occupies site area of 25.1 m² and maintains the use at the same site under previous planning application Nos. A/YL-NTM/281 and 333, he has no objection in principle to the proposed development from the public drainage point of view. The applicant is advised that the proposed development should neither

obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.

Landscaping

10.1.10 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

It is noted that large portion of the Site has been occupied by the existing container for temporary vegetable collection and transfer station, and there is no landscape resource within the Site as shown in the submitted photos. In view that there is inadequate space for meaningful landscape within the Site, landscape condition is therefore not recommended, should the application be approved by the Board.

Others

10.1.11 Comments of the Commissioner of Police (C of P):

No obstruction caused to Chun Shin Road and the vicinity would be tolerated.

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

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Re provisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. The project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the re provisioned facilities to FEHD.
- (b) Proper license and/or permit issued by FEHD 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 its subsidiary legislation and the operation of any business should not cause any obstruction.
- (c) If the proposal involves any commercial/trading activities, its state should not as to be a nuisance or injurious or dangerous to health and surrounding environment. For any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

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

He has no comment on the application and no local comment has been

received.

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Director of Leisure and Cultural Services (DLCS).

11. Public Comment Received During Statutory Publication Period

On 18.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 8.2.2019, one supporting public comment from a Yuen Long District Council Member was received. (**Appendix III**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary vegetable collection and transfer station within the “CDA” zone. The planning intention of “CDA” zone is for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. The applied use for vegetable collection and transfer station is not in line with the planning intention of the “CDA” zone, but approval of the application on a temporary basis for a period of 3 years would not frustrate the planning intention of “CDA” zone. It serves as a transfer station for the local farmers in the area to collect the vegetables for further transferring. DAFC supports the application from agricultural perspective as the Co-operative Society has the operation need for the transfer station.
- 12.2 The applied use is small in scale and involves only a one-storey container with a site area of about 25.1 m². The daily operation hours are between 7:00 a.m. and 10:00 a.m., Mondays to Saturdays, and includes one daily trip of LGV to collect vegetables from the station. The operation of the station is not expected to cause any significant adverse traffic, environmental, ecological, drainage and landscape impacts on the surrounding areas. It is not incompatible with the surrounding areas which comprise agricultural land, fishing farms, orchards, scattered residential dwellings and unused/vacant land (**Plan A-2**).
- 12.3 The current application is for renewal of the permission under application No.

A/YL-NTM/333 for the same use for a further period of 3 years. The application is in line with the TPB PG-No. 34B in that since the last approval, there has been no major change in planning circumstances; all approval conditions under the previous approval have been complied with; and the 3-year approval period sought is the same as in the previous application. Concerned Government departments, including C for T, D of FS, CE/MN of DSD, DEP and CTP/UD&L of PlanD have no adverse comments on traffic, fire safety, drainage, environmental and landscape aspects. To mitigate any potential environmental impact on the surrounding area, approval condition restricting the operation hours, as proposed by the applicant, has been recommended in paragraph 13.2 (a) below. Any non-compliance with the approval condition will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority.

- 12.4 There are 2 previously approved applications for the same use at the same site. Approval of the subject application is in line with the previous decisions of the Committee.
- 12.5 There is one supporting comment received on the application during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessments in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the temporary vegetable collection and transfer station could be tolerated for a period of 3 years.
- 13.2 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, and be renewed from 19.3.2019 until 18.3.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions:

- (a) the operation is restricted from 7:00 a.m. to 10:00 a.m. from Mondays to Saturdays, as proposed by the applicant, during the planning approval period; and
- (b) if the above planning condition (a) 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.

[Except for condition (a) which has been revised and (b) which has been retained, other conditions under the last approved application No. A/YL-NTM/333 concerning the submission and implementation of FSIs proposal have been deleted to accord with the latest departmental comments.]

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 renewal of the planning permission for the vegetable collection and transfer station at the Site is not in line with the planning intention of the "Comprehensive Development Area" zone which is intended for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning application.
- 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 received on 9.1.2019
Appendix Ia	Letter dated 15.1.2019
Appendix Ib	FI dated 18.2.2019
Appendix II	Previous Applications
Appendix III	Public Comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Layout Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2019**