

NTPC Paper No. A/YL-PH/867
For Consideration by
the Rural and New Town
Planning Committee
on 8.1.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/867

- Applicant** : Mr. Cheung Chi Kwong Kent represented by Mr. Kwok Chi Man
- Site** : Lots 749 S.C and 750 S.B RP (Part) in D.D. 111, Pat Heung, Yuen Long
- Site Area** : About 825m²
- 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 (Bicycle Goods Shop and Convenience Store) 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 (bicycle goods shop and convenience store) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use in the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is paved and vacant (**Plans A-2 to A-4**).
- 1.2 The Site was the subject of three previous planning applications for public car/lorry park and temporary sales of second-hand car uses which were all approved by the Rural and New Town Planning Committee (the Committee) between 1999 and 2005.
- 1.3 According to the applicant, the proposed development involves one two-storey structure with a total floor area of about 224m² and building height of about 6.5m for bicycle goods shop on the ground floor and convenience store on the upper floor. Two private car parking spaces and one loading / unloading space for light goods vehicle will be provided within the Site. The operation hours are between

9:00 a.m. and 6:00 p.m. daily (including public holidays). The Site is accessible from Fan Kam Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with planning statement and plans (**Appendix I**) received on 16.11.2020
 - (b) Further Information (FI) received on 24.12.2020 in (**Appendix Ia**) response to departmental comments
[exempted from publication requirement]
 - (c) FI received on 28.12.2020 in response to departmental (**Appendix Ib**) comments
[exempted from publication requirement]
 - (d) FI received on 29.12.2020 in response to departmental (**Appendix Ic**) comments
[exempted from publication requirement]

2. Justifications from the Applicant

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

- (a) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the “V” zone. It is not incompatible with the rural character of the surrounding area.
- (b) No adverse impact on the environment is anticipated. Night time lighting and loudspeaker will not be used. The applicant will follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimize any potential nuisance generated by the proposed development.
- (c) The proposed development is small in scale and is to serve the nearby residents. The applicant has already consulted the locals prior to the submission of the application and there was no objection raised by the locals.

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

The applicant is not the “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 letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is currently not subject to any active planning enforcement action.

5. **Previous Applications**

- 5.1 The Site was the subject of three previous applications for public car/lorry park and temporary sales of second hand car uses. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-PH/291 for public car/lorry park was approved with conditions by the Committee for 3 years in 1999 for the reasons that the some of the parking demand from the local could be satisfied; the development was considered functional in supporting the village type development in the area and the open storage/workshop uses in its vicinity; the development was small in scale and adverse traffic and environmental impacts on the surroundings were not expected; and relevant departments had no adverse comments.
- 5.3 Applications No. A/YL-PH/468 and 496 both for temporary sales of second hand cars were approved with conditions by the Committee or the Board on review for 1 year in 2004 and 2005 respectively, mainly on the considerations that there was a similar application within the same "V" zone; there was no Small House application at the site; concerns of relevant departments could be addressed by approval conditions; and approval was granted to allow time to relocate the business.

6. **Similar Applications**

There are eight similar applications involving five sites for temporary shop and services (real estate agency, daily supplies and food retail shop, provision store and car beauty services) within the same "V" zone. All of them were approved with conditions by the Committee between 2013 and 2020 on similar considerations that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "V" zone; the development was not incompatible with the surrounding land uses; and relevant departments had no adverse comment. The planning permission of one application was revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4)

7.1 The Site is:

- (a) paved and vacant; and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding area is rural in character intermixed with residential dwellings /structures, open storage yards, parking of vehicles and vacant / unused land **(Plan A-2)**:

- (a) to the south, north and east are residential dwellings/structures, open storage yards, a bean curd production factory and vacant / unused land; and
- (b) to the west across the Fan Kam Road are residential dwellings/structures, open storage yard, parking of vehicles and vacant land.

8. Planning Intention

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 (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) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) 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. 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 rent or fee, as may be imposed by the LandsD.
- (c) 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 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. 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received 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.

Drainage

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

- (a) He has no objection to the proposed development.
- (b) Should the application be approved, approval conditions on the submission of a drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.

Fire Safety

9.1.6 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 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.

Building Matters

- 9.1.7 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, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they unauthorized building works (UBW) under the BO. An Authorized Person 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 BD to effect their removal in accordance with the prevailing 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) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
 - (e) Any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings are subject to the control of Part VII of the B(P)R.
 - (f) Detailed checking under the BO will be carried out at building plan submission stage.

Water Supply

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

- (b) A Waterworks Reserve within 5 metres from the centerline of the watermains shown in **Plan A-2** shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage of materials and car-parking purpose.
- (c) The Water Authority and his officer and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority.
- (d) No new trees or shrubs with penetrating roots may be planted within the waterworks reserve or in the vicinity of the water main shown on **Plan A-2**.
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

District Officer's Comments

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

He has not received any comments from the 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) Director of Electrical and Mechanical Services;
- (b) Project Manager/ West, Civil Engineering and Development Department; and
- (c) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 24.11.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from two individuals (**Appendices IV-1 and IV-2**) objecting to the application mainly on the grounds that the proposed shop and services in a residential area would affect the rural living and ecological environment; and the Site was previously used for open storage.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (bicycle goods shop and convenience store) for a period of 3 years at the “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. The proposed use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advised that there is currently no Small House application approved or under processing at the Site. 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 development is considered not incompatible with the surrounding area which is rural in character intermixed with residential dwellings / structures and vacant / unused land. According to the applicant, the proposed development is intended to serve the nearby residents.
- 11.3 In view of the nature and scale of the proposed use and its location near Fan Kam Road, it is unlikely that the proposed temporary shop and services use would generate significant adverse traffic and drainage impacts and environmental nuisance to the surrounding area. Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours is recommended in paragraph 12.2(a) below. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. 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 (b) to (g) below.
- 11.4 The Site is subject to three previous applications for public car/lorry park and temporary sales of second hand car which were all approved with conditions between 1999 and 2005 as detailed in paragraph 5 above. The current application is for a different use and submitted by a different applicant. There are eight similar applications for temporary shop and services uses within the same “V” zone, which were approved with conditions by the Committee between 1993 and 2020 as detailed in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions on the similar applications.
- 11.5 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary shop and services (bicycle goods shop and convenience store) 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 8.1.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) 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 8.7.2021;
- (d) in relation to (c) 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 8.10.2021;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 8.7.2021;
- (g) in relation to (f) above, the implementation of fire service installations proposal 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 8.10.2021;
- (h) if any of the above planning condition (a), (b) or (e) 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

- (i) if any of the above planning condition (c), (d), (f) or (g) 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 attached at **Appendix V**.

- 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 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 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

Appendix I	Application form with planning statement and plans received on 16.11.2020
Appendix Ia	FI received on 24.12.2020
Appendix Ib	FI received on 28.12.2020
Appendix Ic	FI received on 29.12.2020
Appendix II	Previous applications covering the Site

Appendix III	Similar applications within the same “V” zone on the Pat Heung OZP
Appendices IV-1 and IV-2	Public comments received during the statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**