

RNTPC Paper No. A/YL-PS/600A  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 26.6.2020

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

**APPLICATION NO. A/YL-PS/600**

- Applicant** : Mr. Tang Chak Mo represented by Miss Leung Hung Tang
- Site** : Lots 446 (Part) and 447 (Part) in D.D. 122, Ping Shan, Yuen Long, New Territories
- Site Area** : About 94.3 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Village Type Development” (“V”)  
[Restricted to 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 temporary shop and services (grocery store) for a period of 3 years (**Plan A-1**). According to the Notes of “V” zone of the OZP, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently occupied by vacant temporary structures (**Plan A-4**).
- 1.2 The Site is the subject of one previous application (No. A/YL-PS/575) for temporary warehouse (**Plan A-1**) which was rejected by the Rural and New Town Planning Committee (the Committee) on 21.12.2018. Details of the previous application are summarised at paragraph 5 below and at **Appendix II**.
- 1.3 The major development parameters of the current application are as follows:

<b>Site area</b>	About 94.3 m <sup>2</sup>
<b>Total floor area</b>	About 94.3 m <sup>2</sup>
<b>No. of structure</b>	1
<b>Height of structure</b>	1 storey (2.2m)
<b>No. of parking space</b>	Nil
<b>No. of loading/ unloading bay</b>	Nil
<b>Operation Hours</b>	10:00 a.m. to 7:00 p.m. (Saturdays, Sundays and Public Holidays only)

- 1.4 According to the applicant, the Site is accessible via a local track leading from Ping Ha Road and no vehicle park is proposed at the Site (**Drawings A-1 and A-2**).
- 1.5 The site access plan and proposed layout plan are at **Drawings A-1 and A-2** respectively.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 14.1.2020 with lot index plan, proposed layout plan and site access plan (**Appendix I**)
  - (b) Further Information (FI) of 3.2.2020 providing responses to departmental comments (**Appendix Ia**)  
*(accepted and exempted from publication and recounting requirement)*
  - (c) FI of 5.5.2020 providing responses to departmental comments and replacement of site access plan (**Appendix Ib**)  
*(accepted and exempted from publication and recounting requirement)*
- 1.7 On 6.3.2020, the Committee agreed to the applicant's request to defer making a decision on the application for two months so as to allow time for preparation of further information to resolve departmental comments. FI was received on 3.2.2020 and 5.5.2020 respectively. Therefore, the application is submitted to the Committee for consideration at this meeting.

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

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

- (a) The proposed development for grocery store is temporary in nature. It would only be operated on Saturdays, Sundays and Public Holidays to serve local residents. No vehicle park is proposed at the Site.
- (b) The proposed use would not jeopardise the long term planning intention of the subject "V" zone.

## **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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Ping Shan 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 planning enforcement action.

#### **5. Previous Application**

5.1 The Site is subject of a previous application No. A/YL-PS/575 for temporary warehouse. Details of the previous application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

5.2 Application No. A/YL-PS/575 for temporary warehouse was rejected by the Committee on 21.12.2018 on grounds that the development was not in line with the planning intention of the “V” zone; the proposed development was not compatible with the residential development in the vicinity; and approval of the application would set an undesirable precedent for similar applications within the “V” zone.

#### **6. Similar Application**

6.1 There is one similar application (No. A/YL-PS/588) for temporary animal boarding establishment, dog recreation centre and shop and services (pet supplies retail shop) in the same “V” zone. Details of the application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

6.2 Application No. A/YL-PS/588 was approved by the Committee with conditions on 31.5.2019 on considerations that approval of the application would not jeopardise the planning intention of the “V” zone; not incompatible with the surrounding land uses and no adverse departmental and public comments. However the permission was revoked on 31.5.2020 due to non-compliance with approval conditions.

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

7.1 The Site is:

- (a) occupied by vacant temporary structures; and
- (b) accessed by a local track connecting Ping Ha Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is temporary rural communal public vehicle park with valid planning permission under application No. A/YL-PS/590. Residential dwellings of Hang Tau Tsuen, storage and parking of vehicles are located to the further north;
- (b) to the immediate east are storage use and parking of vehicles which are suspected unauthorised development (UD). To the further east are declared monuments of Tang Ancestral Hall and Yu Kiu Ancestral Hall. To the further southeast are residential dwellings of Hang Mei Tsuen;

- (c) to the immediate south are storage use and parking of vehicles which are suspected UDs. To the further south are toilet and temporary public vehicle park with valid planning permission under application No. A/YL-PS/583; and
- (d) to the west and southwest are orchard and some parking of vehicles, including the temporary public vehicle park for medium size buses and private cars with valid planning permission under application No. A/YL-PS/564.

## **8. Planning Intention**

The planning intention of the “V” zone is to reflect existing recognised 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 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 summarised 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) There is no Small House application approved or under processing at the Site.
- (c) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or to regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications 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 will be approved. If such application 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 LandsD.

### **Traffic**

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Ping Ha Road.

### **Environment**

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

Should the application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

### **Landscape**

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

- (a) With reference to the aerial photo of 2018, it is observed that the Site is completely hard paved and the southern portion of the Site is occupied by a temporary structure. The Site is situated in an area of miscellaneous urban fringe landscape character predominated by open storage yards, temporary structures and village houses. The proposed development is not entirely incompatible to the surrounding environment. In view that the application does not involve any landscape issue and there is no significant landscape resources within the Site, material landscape impact arising from the proposed development is not envisaged.
- (b) It is noted that space within the Site is limited and there is no prominent public frontage along the site boundary. Should the application be approved by the Board, it is considered not necessary to impose a landscape condition, as its effect on enhancing the landscape quality of public realm is not apparent.

### **Drainage**

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

- (a) The Site is relatively small and he has no objection to the application from drainage viewpoint.
- (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.

### **Fire Safety**

#### 9.1.6 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. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval.
- (c) 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.
- (d) 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**

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structure 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 New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorised building works (UBW) under the Buildings Ordinance (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 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.

- (d) 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 BA should be obtained, otherwise they are UBW. An Authorised Person (AP) 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) Regulations (B(P)R) respectively.
- (f) 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.

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

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

His Office has not received any comment from the locals on the application.

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

- (a) Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P);
- (d) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO);
- (e) Director of Agriculture, Fisheries and Conservation (DAFC);
- (f) Director of Electrical and Mechanical Services (DEMS);
- (g) Director of Leisure and Cultural Services (DLCS); and
- (h) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

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

On 21.1.2020, 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 temporary shop and services (grocery store) for a period of 3 years at the Site zoned “V”. Although the applied use is not entirely in line with the planning intention of the “V” zone which is primarily for development of Small Houses by indigenous villagers, the proposal is intended to serve the local residents and could meet any such demand in the area. According to the DLO/YL, LandsD, there is no Small House application approved or under processing at the Site. As such, approval of the application on a temporary basis for a period of three years would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 The Site is mainly surrounded by vehicle parks, storage use and residential dwellings (**Plan A-2**). The development under application is not entirely incompatible with the surrounding land uses.
- 11.3 Relevant Government departments, including AC for T/NT of TD, CHE/NTW of HyD, CE/MN of DSD, CTP/UD&L of PlanD, DEP and D of FS have no objection to or no adverse comment on the application. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 A similar application has been approved in the same “V” zone, approval of the current application is in line with the Committee’s previous decision.
- 11.5 There is no public comment received on the application during the statutory publication period.

## 12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, 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 on a temporary basis for a period of 3 years until **26.6.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no operation between 7:00 p.m. and 10:00 a.m. is allowed on the Site, as proposed by the applicant, during the planning approval period;



- (b) no operation on Mondays to Fridays (excluding public holidays) is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (c) the submission of a 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 **26.12.2020**;
- (d) in relation to (c) above, the implementation of the 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 **26.3.2021**;
- (e) if any of the above planning conditions (a) or (b) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (f) if any of the above planning conditions (c) or (d) is not complied with by the above 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 primarily 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 received on 14.1.2020 with lot index plan, proposed layout plan and site access plan

<b>Appendix Ia</b>	FI of 3.2.2020 providing responses to departmental comments
<b>Appendix Ib</b>	FI of 5.5.2020 providing replacement drawings and responses to departmental comments
<b>Appendix II</b>	Previous Application covering the Site
<b>Appendix III</b>	Similar Application in the same "V" zone
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2020**