

REVIEW OF APPLICATION NO. A/YL-LFS/356
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Temporary Electric Vehicle Charging Station and
Private Car Vehicle Park with Ancillary Office and Shroff
for a Period of 3 Years in “Residential (Group C)” Zone,
Lot 2150 in D.D. 129, Lau Fau Shan, Yuen Long, New Territories**

1. Background

- 1.1 On 9.1.2020, the applicant, Ka Long Consultant Engineering Limited represented by WONG Sun-wo William, sought planning permission for proposed temporary electric vehicle charging station and private car vehicle park with ancillary office and shroff for a period of 3 years under s.16 of the Town Planning Ordinance (the Ordinance) at the application site (the Site). The Site falls within an area zoned “Residential (Group C)” (“R(C)”) on the Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9 (**Plan R-1**).
- 1.2 On 6.3.2020, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- (a) the applicant failed to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and
 - (b) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “Residential (Group C)” zone, the cumulative effect of which would result in adverse traffic impact in the area.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/YL-LFS/356 **(Annex A)**
 - (b) Extract of minutes of the RNTPC Meeting held on 6.3.2020 **(Annex B)**
 - (c) Secretary of the Board’s letter dated 20.3.2020 **(Annex C)**
- 1.4 The site area is about 1,198 m². The applicant proposes to provide 28 private car parking spaces, of which 7 with electric car charging facilities, within the Site. Two temporary structures for site office cum shroff and toilet uses will also be provided.

2. Application for Review

- 2.1 On 26.3.2020, the applicant’s representative, under section 17(1) of the Ordinance submitted a letter for a review of the RNTPC’s decision to reject the application (**Annex D**). On 9.6.2020, the applicant provided supplementary information including a supporting letter from a District Council (DC) member and response to the comments of the Transport Department (TD) (**Annex E**).

- 2.2 On 28.8.2020, the Board agreed to adjourn the review to a later date as recommended by the Planning Department. The review application is now scheduled for consideration by the Board at this meeting.

3. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are detailed in the submission at **Annex E**. They can be summarised as follows:

- (a) The traffic flow issue raised by TD was previously responded to, which is now attached again for reference. The application is submitted according to the demand of Deep Bay Grove's residents referred by the DC member of the concerned constituency. Moreover, the proposed vehicle park will be used for parking of the existing road-side vehicles along Deep Bay Road, which would not generate additional traffic flow.
- (b) The traffic flow estimation submitted on 23.1.2020 for the s.16 application was a detailed assessment with consultation of the villagers in the surrounding area.
- (c) A sign will be posted at the entrance of the Site to remind drivers to prohibit stopping at the access road leading to Deep Bay Road.
- (d) There are 3 passing bays on the section of Deep Bay Road between the Site and Lau Fau Shan Roundabout. Drivers travelling on this section are usually familiar with the traffic condition of Deep Bay Road and would be courteous with others. Villagers will reduce travelling during peak hours.

4. **The Section 16 Application**

The Site and Its Surrounding Areas

- 4.1 The situation of the Site and its surrounding areas at the time of the consideration of the s.16 application by the RNTPC was described in paragraphs 7.1 and 7.2 of **Annex A**. There has been no major change in the situation since then.
- 4.2 The Site is:
- (a) currently hard-paved and vacant (**Plans R-2, R-3, R-4a to R-4c**); and
 - (b) accessible via a local track leading to Deep Bay Road. The local track is the access to the adjacent low-rise residential development of Deep Bay Grove.
- 4.3 The surrounding areas have the following characteristics: (**Plans R-2 and R-3**)
- (a) to its immediate north is the low-rise residential development of Deep Bay Grove, and to its further north are some residential dwellings;
 - (b) to its south is a site with planning permission (Application No. A/YL-LFS/323) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years up to 20.7.2023 and an open storage yard;

- (c) to its east across Deep Bay Road are some open storage yards and warehouses; and
- (d) to its west is shrubland, and to its further west is the coastal area of Deep Bay.

Planning Intention

- 4.4 There has been no change in planning intention of the concerned “R(C)” zone as mentioned in paragraph 8 of **Annex A**. The planning intention of the “R(C)” zone is primarily for low-rise, low density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

Previous Application

- 4.5 There is no previous application at the Site.

Similar Application

- 4.6 There is no similar application for the proposed use within the same “R(C)” zone on the same OZP.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 9 of **Annex A**.
- 5.2 For the review application, the following government department has been further consulted and his updated comments are summarised as follows:

Traffic

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

- (a) As the proposed development might induce additional traffic flow to Deep Bay Road which is a single track road (about 3 - 6 m in width), the applicant shall conduct quantitative analysis to assess potential traffic impact arising from the proposed development.
- (b) According to the supplementary information, there is no information/assessment on the following:
 - (i) existing traffic flow of Deep Bay Road; and
 - (ii) capacity assessment of Deep Bay Road.
- (c) In light of the above, there is insufficient information to demonstrate that the proposed development would not have adverse traffic impact to the adjacent road network. He does not support the review application from traffic engineering point of view.

- 5.3 The following government departments maintain their previous comments on the s.16 application as stated in paragraph 9.1 of **Annex A**, which are recapitulated below:

Land Administration

5.3.1 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) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularity 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 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 premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) The access arrangement should be commented by TD.
- (b) The applicant is advised to approach LandsD to confirm the management and maintenance party of temporary access road connecting to Deep Bay Road.
- (c) If the proposed run-in is agreed by TD, the applicant should provide the run-in/out at temporary access 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.
- (d) According to the record of his Department, there are railings at the temporary access road and the proposed access arrangement will require removal or modification of the railings. The agreement of TD should be sought before commencement of the works. The removal and modification work shall be completed to the satisfaction of TD and HyD.
- (e) There is drainage channel across the proposed access point or run-in/out, the applicant should maintain its capacity and functionality. The applicant is advised to check the capacity and submit the modification details for his comments if necessary.
- (f) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.

- (g) The applicant should note that HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

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

- (a) DEP has no adverse comment on the application.
- (b) The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP to minimize potential environmental nuisance to the surrounding area.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest a condition to be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and to maintain the proposed drainage facilities to the satisfaction of the Director of Drainage Services or of the Board.

5.4 The following government departments maintain their previous comments on the s.16 application as stated in paragraph 9.1 of **Annex A**:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (c) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (d) Director of Fire Services (D of FS); and
- (e) District Officer (Yuen Long) (DO(YL)).

5.5 The following government departments maintain their previous views of having no objection to or no comment on the review application:

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

6. Public Comments on the Review Application Received During Statutory Publication Periods

- 6.1 On 17.4.2020 and 19.6.2020, the review application and the supplementary information were published for public inspection. During the statutory public inspection periods, ten public comments were received from Deep Bay Grove Owners' Corporation and other individuals (**Annexes F-1 to F-10**). They objected to the review application on similar grounds as per the s.16 application stage in that the Site is paved and the Board should not encourage brownfield development; the development would induce adverse noise, environmental and ecological impacts to the surroundings; the development would cause safety, nuisance and privacy issues to the nearby Deep Bay Grove; the proposed development would increase the traffic at Deep Bay Road; and the traffic would pass through a section of road managed by Deep Bay Grove which is unfair to the owners of Deep Bay Grove.
- 6.2 Six public comments were received at the s.16 application stage as set out in paragraph 10 of **Annex A**.

7. Planning Considerations and Assessments

- 7.1 The application is for a review of the RNTPC's decision on 6.3.2020 to reject the subject application for proposed temporary electric vehicle charging station and private car vehicle park with ancillary office and shroff for a period of 3 years at the Site zoned "R(C)" on the OZP (**Plan R-1**). The application was rejected for the reasons that the applicant failed to demonstrate the proposed development would not generate adverse traffic impact on the surrounding areas and approval of the application would set an undesirable precedent for similar applications. The applicant submitted justifications in support of the review application mainly on grounds that the traffic concerns of TD have been responded to and the proposed development is supported by the DC member of the concerned constituency. Since the consideration of the subject application by the RNTPC on 6.3.2020, there has been no change in planning circumstances.

Planning Intention of "R(C)" Zone

- 7.2 The Site falls within an area zoned "R(C)" on the OZP, which is intended primarily for low-rise, low density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The Site is currently paved and vacant (**Plans R-2, R-3, R-4a to R-4c**). The applicant proposes to provide 28 car parking spaces for private cars as well as electric vehicles at the Site. The proposed use is considered not entirely in line with the planning intention of the "R(C)" zone. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

Land Use Compatibility

- 7.3 The Site is situated in an area of urban fringe landscape character predominated by low-rise residential buildings, village houses and temporary structures, open storage yards and shrubland (**Plans R-2 and R-3**). The proposed use is considered not incompatible with the surrounding areas.

Adverse Traffic Impact on the Surrounding Areas

- 7.4 Having reviewed the supplementary information provided by the applicant (**Annex E**), C for T does not support the review application from traffic engineering point of view. He has concern over the additional traffic flow generated by the proposed development on Deep Bay Road which is a single track road (about 3-6m in width) and the applicant has yet to address his concern. The applicant did not provide information on the existing traffic flow and capacity assessment of Deep Bay Road. In this regard, the applicant fails to demonstrate that the proposed use would not have adverse traffic impact on the surrounding areas.

Other Departmental Comments

- 7.5 Other relevant departments including DAFC, DEP and CTP/UD&L, PlanD have no adverse comment on the review application on the nature conservation, environmental and landscape aspects.

Undesirable Precedent

- 7.6 There is no similar application in the same “R(C)” zone. Approval of the application would set an undesirable precedent for similar applications within the “R(C)” zone. The cumulative effect of approving such similar applications would result in adverse traffic impact in the area.

Public Comments

- 7.7 Regarding the public comments objecting to the review application on the grounds as detailed in paragraph 6 above, the planning considerations and assessments in paragraphs 7.1 to 7.6 above are relevant.

8. Planning Department’s Views

- 8.1 Based on the assessments made in paragraph 7, having taken into account the public comments mentioned in paragraph 6 and given that there has been no change in the planning circumstances since the consideration of the subject application by the RNTPC on 6.3.2020, the Planning Department maintains its previous view of not supporting the review application for the following reasons:
- (a) the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and
 - (b) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “Residential (Group C)” zone, the cumulative effect of which will result in adverse traffic impact in the area.
- 8.2 Alternatively, should the Board decide to approve the application on review, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **25.9.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation from 11 p.m. to 7 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period;
- (d) the submission of a run-in/out proposal for the Site within **6 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **25.3.2021**;
- (e) in relation to (d) above, the provision of a run-in/out within **9 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **25.6.2021**;
- (f) the submission of a revised 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 **25.3.2021**;
- (g) in relation to (f) above, the implementation of the revised 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 **25.6.2021**;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) all existing trees within the Site should be maintained in good condition at all times during the planning approval period;
- (j) the submission of a fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **25.3.2021**;
- (k) in relation to (j) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **25.6.2021**;
- (l) if any of the above planning conditions (a), (b), (c), (h) or (i) 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
- (m) if any of the above planning conditions (d), (e), (f), (g), (j) or (k) 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 **Annex G**.

9. Decision Sought

- 9.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review 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.

10. Attachments

Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Aerial Photo
Plans R-4a to 4c	Site Photos
Annex A	RNTPC Paper No. A/YL-LFS/356
Annex B	Extract of minutes of the RNTPC Meeting held on 6.3.2020
Annex C	Secretary of the Board's letter dated 20.3.2020
Annex D	Letter of 26.3.2020 from the applicant's representative applying for review
Annex E	Supplementary Information of 9.6.2020 from the applicant's representative
Annexes F-1 to 10	Public comments received during statutory publication period of the review application
Annex G	Recommended advisory clauses

**PLANNING DEPARTMENT
SEPTEMBER 2020**

TPB Paper No. 10678

**For Consideration by
the Town Planning Board on 25.9.2020**

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