

RNTPC Paper No. A/YL-KTS/778A
For Consideration by
the Rural and New Town
Planning Committee
on 6.7.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/778

<u>Applicant</u>	:	Amsua Trading Company Limited represented by Spence Robinson Limited
<u>Site</u>	:	Lots 1542 RP (Part) in D.D. 106, Yuen Kong San Tsuen, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 1,730 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Religious Institution (Mosque with Ancillary Facilities) and School

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed religious institution (mosque with ancillary facilities) and school. According to the notes of the OZP, ‘Religious Institution’ and ‘School’ are Column 2 uses within the “AGR” zone which require planning permission from the Town Planning Board (the Board). The Site is subject to 7 previous applications for various temporary open storage uses. Except for one approved by the Rural and New Town Planning Committee (the Committee) in 1993, the others were rejected by the Committee in 1996 to 2005. The Site is paved, partly used for parking of vehicles and partly occupied by a few temporary structures for prayer rooms and classrooms (**Plan A-4**).
- 1.2 According to the applicant, two building blocks with a maximum building height of 32.95 mPD (3 storeys) and total floor area of about 3,095m² will be erected on the Site for mosque (GFA of 1,940 m²) and kindergarten (GFA of 1,155 m²) uses. Detailed development parameters are shown in the table below:

Development Parameters	Proposal
Site Area (about)	1,730 m ²
Plot Ratio	1.79
No. of Block	2
Total GFA (about)	3,095 m ²
- Mosque (Block A) (about)	1,940 m ²
<i>Mosque (Prayer's Area)</i>	295 m ²
<i>Caretaker's Room</i>	15 m ²
<i>Student Sports/Activity Hall</i>	285 m ²
<i>Ancillary Facilities (Toilets/Circulation/E&M rooms)</i>	1,235 m ²
<i>Ancillary Car Park</i>	110 m ²
- Kindergarten (Block B) (about)	1,155 m ²
<i>Classrooms</i>	250 m ²
<i>Activity Areas</i>	75 m ²
<i>General Office/Teachers Rooms</i>	75 m ²
<i>Ancillary Facilities (Toilets/Circulation/E&M rooms etc.)</i>	630 m ²
<i>Ancillary Car Park</i>	125 m ²
Building Height (about) (main roof)	
Mosque (Block A)	32.95 mPD (3 storeys)
Kindergarten (Block B)	30.4 mPD (3 storeys)
Site Coverage (about)	57.23 %
Parking Facilities	
Private Car Parking Space	13 (including 1 for accessible parking)
No. of Motorcycle Parking Space	3
No. of Small Coach Loading / Unloading Space	1
No. of Mini-bus Loading/ Unloading Space	5
No. of Taxi drop off	1

- 1.3 The block plan, floor plans, elevations, sections, landscape proposal and photomontages submitted by the applicant are at **Drawings A-1 to A-15**.
- 1.4 According to the applicant, the mosque is designed for 180 worshippers while the kindergarten has 4 classrooms for a total of 80 students. The mosque is open for morning prayer from around 4:20am until 9pm daily¹. The opening hours of the kindergarten will be 8am to 6pm on Mondays to Thursdays and Saturdays. The applicant stated that the proposed mosque is mainly to serve the local Muslim community of Kam Tin/Pat Heung, while Muslims from other areas would be welcome. The proposed use will not use public announcement system, portable

¹ According to the applicant, the main gate of the Site will be open for morning prayers of the mosque. The time of the morning prayers is in Annex D of **Appendix Ide**. The mosque will remain open until 9pm daily, except during Ramadan when the gate would remain open until 10:30pm. The applicant stated that people will mainly come to the mosque at prayer times later in the day.

loudspeakers or any form of audio amplification system externally. The proposed vehicular access is located at the northeast of the Site via a local access road connecting to Kam Sheung Road. The proposed development is anticipated to be completed in June 2021. The applicant has submitted a Traffic Impact Assessment (TIA) to support the application.

Traffic

- 1.5 The applicant proposed to set back the north-eastern boundary of the Site to allow widening of the local access road to improve the access arrangement (**Drawing A-1**). According to the TIA, the peak traffic generated by the proposed development would induce insignificant impact on the surrounding road network, and the proposed development is considered acceptable in traffic engineering point of view.

Drainage and Sewage

- 1.6 The drainage from the proposed development will be connected to the existing public drainage system. No additional surface-runoff is anticipated from the proposed development and no increment of existing catchment is expected. There is no public sewage system serving the surrounding area of the Site. The applicant proposed that a septic tank and soakaway system (**Drawing A-1**) or a small sewage treatment plant (**Drawing A-8**) will be used at the Site.

Environment

- 1.7 To minimise the potential noise impact from Kam Sheung Road and the adjacent open storage uses, the proposed kindergarten is located at the rear of the Site behind the proposed mosque with a setback over 48m from Kam Sheung Road. Detailed noise abatement assessment will be carried out at the detail design stage. Noise barrier design at the site periphery or at the building perimeter, double glazed windows/double windows and air conditioning to all rooms would be considered, if necessary.

Landscape and Visual

- 1.8 According to the applicant, there is no existing tree at the Site. Soft landscaped planters and greenery are proposed on ground floor, building façade and fence wall. The proposed development will enhance the greenery of the Site and provide a minimum of 20% greenery within the Site. Also, given the low-rise development and setback from Kam Sheung Road, no adverse visual impact is anticipated.
- 1.9 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 5.2.2018 **(Appendix I)**
- (b) Supplementary information and plans received on 5.2.2018 **(Appendix Ia)**

- (c) Further Information (FI) received on 11.5.2018 providing **(Appendix Ib)** response to departmental comments
(accepted but not exempted from publication and recounting requirement)
- (d) FI received on 20.6.2018 providing response to **(Appendix Ic)** departmental comments
(accepted and exempted from publication and recounting requirement)
- (e) FI received on 26.6.2018 providing response to **(Appendix Id)** departmental comments
(accepted and exempted from publication and recounting requirement)
- (f) FI received on 27.6.2018 providing response to **(Appendix Ie)** departmental comments
(accepted and exempted from publication and recounting requirement)

1.10 As requested by the applicant, the Committee agreed to defer consideration of the application on 16.3.2018 to allow more time for the applicant to prepare FI to address the departmental comments. The applicant submitted FIs providing responses to departmental comments to support the application.

2. Justifications from the Applicant

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

- (a) There are only five permanent mosque buildings in Hong Kong in which none is located in the New Territories. The proposed development would fulfil the demand for a permanent mosque and kindergarten for the Islamic community in Kam Tin/Pat Heung area.
- (b) The existing temporary structures erected on the Site have been used as mosque for prayers and education facility for language learning for the Islamic Community in Kam Tin and Pat Heung area since 2014. The application is to regularize the current uses on the Site. The existing facilities are operated by Amsua Education Foundation Limited, a charitable institution funded by the applicant, which is registered under section 88 of the Inland Revenue Ordinance (Cap 112) since 2012. The applicant will transfer ownership of the Site to the current operator (Amsua Education Foundation Limited) upon approval of this application.

- (c) The Site is located at a convenient location suitable for the applied uses. The proposed development is compatible with the existing surrounding context in terms of building height and volume. The proposed soft landscaped planters along the site periphery and greenery on the building facades and fence will further integrate the buildings with the surrounding context.
- (d) The proposed development would not cause any nuisance to the neighbourhood and would not incur adverse geotechnical, traffic and transport, drainage, sewerage, environmental, landscape and visual impacts on the surrounding areas.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 The northern portion of the Site abutting Kam Sheung Road is the subject of current planning enforcement action involving Use for Place for Parking of Vehicles. Enforcement Notice (EN) was issued to the responsible person on 12.6.2018 under s.23(1) of the Town Planning Ordinance (TPO). The Site will continue to be monitored and should the EN requirement is not complied with, further enforcement/prosecution action would be taken against the responsible persons.
- 4.2 It is stated in the applicant’s submission (**Appendix Ib**) that the various temporary structures erected on the Site has been used as mosque and education facilities servicing the Islamic community in the Kam Tin and Pat Heung areas since 2014. According to the Kam Tin South OZP, such uses require planning approval from the Town Planning Board (the Board). While the collection of evidence will be continued to ascertain the use of temporary structures on the Site, a warning letter was sent to the applicant on 3.7.2018 reminding him that the use of the Site for religious institution and/or school uses without a valid planning permission constitutes an unauthorized development under the TPO. Should there be sufficient evidence to prove that such uses is an unauthorized development, enforcement action will be taken.

5. Previous Applications

- 5.1 The Site is subject to 7 previous applications (No. A/DPA/YL-KTS/32, A/YL-KTS/53, 153, 250, 276, 307 and 358) for various temporary open storage uses. Details of the applications are summarized in **Appendix II** and the locations of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/DPA/YL-KTS/32 for open storage of vehicles for a period of 3 years was approved with conditions by the Committee on 21.5.1993 having regard to

its surrounding uses and there was no objection from government departments. No submission was made for compliance of approval conditions relating to landscape, vehicle access, drainage and sewage treatment.

- 5.3 The other 6 applications (No. A/YL-KTS/53, 153, 250, 276, 307 and 358) were rejected by the Committee on 12.7.1996, 5.2.1999, 7.7.2001, 28.6.2002, 9.1.2004 and 23.12.2005 respectively, mainly on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in that residential dwellings located to its close proximity would be susceptible to adverse environmental nuisances generated by the proposed development; and no information that the proposed development would not cause adverse drainage, traffic, landscape and/or environmental impacts on the surrounding areas; approval of the application would set an undesirable precedent for similar uses in “AGR” zone and the cumulative effect of approving such similar applications would result in a general degradation in of the environment of the area.

6. Similar Application

There is no similar application within the same “AGR” zone of the OZP.

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

7.1 The Site is:

- (a) paved, partly used for parking of vehicles and partly occupied by a few temporary structures for the prayer rooms and classrooms; and
- (b) accessible via Kam Sheung Road.

7.2 The surrounding areas are rural in character predominated by residential structures/dwellings, plant nursery, cultivated agricultural land, open storage/ storage yards, warehouse, parking of vehicles and vacant/unused land. Most of the open storage/ storage yards and parking of vehicles are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its west are plant nursery, vacant land, residential structures/dwellings, parking of vehicles, storage yard and cultivated agricultural land;
- (b) to its north across Kam Sheung Road are residential dwellings/structures of Yuen Kong Tsuen, parking for vehicles and vacant land within the “Village Type Development” (“V”) zone; and

- (c) to its east and south across a local track are warehouse, open storage yards, residential dwellings/structures, vacant land and cultivated agricultural land. Yuen Kong San Tsuen zoned “V” is located to the further south (**Plan A-1a**).

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 Lot No. 1542 RP (Portion) in D.D. 106 which, by terms of the lease under which it is held, is demised as agricultural ground. The area and status of the lot under application have to be verified at the land exchange stage if any land exchange is applied for by the applicant to the LandsD.
- (b) The Site falls within an area affected by the Shek Kong Airfield Height Restriction. No building or structure (including addition or fittings) shall exceed the height limit stipulated under the relevant plan.
- (c) Should the application be approved, the applicant has to apply to LandsD for a land exchange to effect the proposed development. Such application will be considered by the LandsD acting in its capacity as a landlord at its sole discretion and there is no guarantee that the land exchange for proposed development will be approved. In the event that the land exchange application is approved, it would be subject to such terms and conditions, including, among other things, the payment of premium and administrative fee, as may be imposed by the LandsD at its sole discretion.

Traffic

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

- (a) The applicant has not submitted sufficient information to demonstrate that the proposed development would not cause significant adverse traffic impact to the surrounding. As such, he has reservation on the application.
- (b) He has the following comments on the TIA:
 - (i) The applicant should demonstrate that the traffic behaviour would be similar to the existing one for only 37 pcu/hr at peak hour for the 180 seats but not similar to other formal mosque in Hong Kong.
 - (ii) The applicant state that the number of people using the mosque will be more or less the same is not valid given the fact that there is more seats provided, i.e. from 130-seats enlarged to 180-seats
 - (iii) Instead of using the area in existing Mosque, a count of attendants would be more representable for the equivalent seats.
- (c) On the proposed access arrangement, i.e. widening of the local access road, he has no objection in principle from traffic engineering perspective. It should be noted that TD would not take up the traffic management of the widening section as the local access road is not under TD's traffic management. Regarding the parking and loading/unloading provision, as the comment on equivalent seat for the mosque is not properly addressed, the proposed parking and loading/unloading provision requirements cannot be ascertained at this stage.
- (d) Should the application be approved, it is recommended the following approval conditions to be included:
 - (i) the submission of a revised Traffic Impact Assessment and the design and implementation of the road improvement measures as proposed in the revised Traffic Impact Assessment to the satisfaction of the Commissioner of Transport or of the Board; and
 - (ii) the design and provision of vehicular access, car parking and loading/unloading facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the Board.

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

- (a) HyD does not and will not maintain any access connecting the Site and Kam Sheung Road. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture

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

The Site is currently paved. Nonetheless, agricultural activities can be found in the vicinity and the Site has potential for agricultural rehabilitation. As such, the application is not supported from agricultural point of view.

Environment

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

- (a) The proposed use involving place of public worship and school would be subject to potential noise impacts arising from the adjacent open storage / industrial use and the adjacent road. The applicant claimed that detailed assessment will be carried out at the detailed design stage and noise barrier, double glazed windows and air conditioning will be considered if necessary. It is noted that no such assessment is provided in the current submission.
- (b) He cannot lend support to the application as the applicant did not ascertain the environmental acceptability and demonstrate how the potential noise impacts could be adequately avoided or mitigated.
- (c) The applicant has clarified that the proposed use will not involve noise generating activities externally, such as the use of public announcement system, portable loudspeakers or any form of audio amplification system that would affect nearby sensitive receivers. All public announcement system or audio amplification system shall be used in the interior only. Outdoor public announcement system, portable loudspeaker or any form of audio amplification system should be prohibited as proposed by the applicant.

- (d) On sewage aspect, two sewage treatment and disposal options, i.e. on-site sewage treatment plant (STP) or septic tank and soakaway system, have been proposed. For the proposed septic tank and soakaway system, the applicant has not conducted soil percolation test and the size of the soakaway system is based on the highest allowable loading according to ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”. The actual percolation test result may be different with a much bigger soakaway area required which might not be fitted between the proposed buildings. The adequacy of septic tank and soakaway system would also be subject to the actual amount of sewage generated from the proposed use. On the other hand, if on-site STP is proposed, appropriate treatment level (e.g. tertiary treatment) would be required to avoid/ minimise impacts to the water quality of Deep Bay with due consideration to the limited assimilative capacity. The above concerns on sewage aspect should be addressed by the applicant at detailed design stage.
- (e) Should the application be approved, it is recommended to impose the following approval conditions:
 - (i) submission of an environmental assessment and the implementation of mitigation measures identified therein; and
 - (ii) submission of a sewage treatment review report and provision of proper sewage treatment facilities identified therein.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the site, prior approval and consent of BD should be obtained, otherwise, they are unauthorized building works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are UBW under the 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 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.

- (d) The Site shall be provided with means of obtaining access thereto from a street and EVA in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Urban Design and Landscape

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

Urban design

- (a) The Site is located within an area rural in character, comprising open storage yards, temporary uses, agricultural lands and village type developments that are subject to maximum 3 storeys in height. The proposed development of two 3-storey structures at the Site is considered not incompatible with the existing visual context and unlikely to have significant visual impact to the surrounding area.

Landscape

- (b) She has some reservations on the application from the landscape planning perspective.
- (c) The area is of rural landscape character comprised of fallow and active agricultural land, vacant land, temporary structures, workshops, village houses. The proposed development is considered not incompatible with existing landscape setting.
- (d) According to the site inspection on 17.11.2017, the Site is hard paved and fenced off with no vegetation. Temporary structures and lorry trucks are found within the Site. Mature trees are found along the western boundary outside the Site and part of their tree crown extends into the Site. Based on the submitted layout plan, it is very likely that the proposed structures along the western boundary will be in conflict with the existing trees' crown and tree pruning might be necessary. However, no information is submitted to address the potential impact. Although indicative planting areas were proposed within the Site, detailed landscape proposal regarding the landscape treatment is missing in the submission. The feasibility of the

proposed landscape is in doubt. Moreover, the proposed development, if approved, would set an undesirable precedent and encourage similar development in the “AGR” zone, thus altering the landscape character of the “AGR” zone.

- (e) The proposed shrubs along the eastern and western boundary are low shrubs mix which is unable to form an effective screening along the site boundary for the proposed development. Moreover, trees are proposed to be planted with bamboo at the main entrance of the Site. According to the planting schedule, bamboo’s ultimate height can reach 15m+ and screen out the sunlight which affects the health growth of the proposed trees.
- (f) Should the application be approved, the conditions on the submission and implementation of a landscape and tree preservation proposal should be incorporated in the planning permission.

Drainage

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

- (a) He has no in-principle objection to the application from the public drainage point of view.
- (b) Should the application be approved, the conditions on submission of drainage proposal and implementation of the drainage proposal for the development should be incorporated in the planning permission.
- (c) The applicant is reminded to maintain all the drainage facilities on site in good condition and ensure that the proposed development would neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installations (FSIs) being provided to his satisfaction.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority.

- (c) The EVA 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.

Electricity

9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approval the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.
- (c) There is an LPG filling station at Kam Sheung Road adjacent to the Site (**Plan A-1a**). For any proposed development with a substantial increase of population adjacent to the LPG filling station, the developer should conduct a quantitative risk assessment taking into account the final design and layout of the proposed development to substantiate that the risk levels meet the government risk guidelines of the Hong Kong Planning Standards and Guidelines.

Architecture

9.1.11 Comments from Chief Architect/CMD2, Architectural Services Department (CA/CMD2, ArchSD):

- (a) The proposed development massing and intensity may not be incompatible with adjacent village type developments with 3 nos. of domestic storeys. In this regards, he has no comment from the visual point of view.

- (b) Regarding greenery within the Site, it is noted that a minimum of 20% greenery has been provided in accordance with PNAP APP-152. In this regard, he has no further comment.

Others

9.1.12 Comments of the Secretary for Education (S for Education):

- (a) For school registration procedures, registration of school is granted in accordance with the stipulated requirements under the Education Ordinance (Cap.279) and relevant Guidelines. Permission from the Town Planning Board and the LandsD should be obtained in respect of the proposed school premises, in addition, the premises should be suitable for school use in terms of fire safety and building safety as confirmed by the Fire Services Department and the BD respectively. The applicant should also submit the documentary proof of the right to use the premises, Occupation Permit (for premises designed and constructed as a school), the proposed curriculum, courses and fees information, etc. for his consideration.
- (b) There is no registered school at the Site.

9.1.13 Comments of the Secretary for Home Affairs (S for Home Affairs):

- (a) He has no objection to the application for developing a religious institution which, *prima facie*, provides places of worship and ancillary facilities for the Muslim community.
- (b) Should the applicant wish to apply for concessionary land premium for the development at later stage, Home Affairs Bureau (HAB) would need the applicant to provide a detailed proposal about the facilities to be set up, their mode of operation and usage etc. for further consideration. Under the prevailing policy, HAB would only consider giving policy support for concessionary premium to land grant cases relating to religious facilities by bona fide religious and charitable organizations under section 88 of the Inland Revenue Ordinance.

District Officer's Comments

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

- (a) He has no particular comments on the application.

- (b) His office received *three five* comments from Pat Heung Rural Committee (PHRC), a Yuen Long District Councillor and Concern Group for the Development of Kam Sheung Road objecting to the application. All of these comments were also received by the Board during the statutory inspection period (**Appendices III-3, 7, 9, 18 and 20**).
- (c) He has no objection to the proposed vehicular access connecting to the existing access with covered channel which is maintained by HAD. The applicant is reminded to exercise extreme care when working in the vicinity of any existing HAD's facility in order not to block, interfere with or cause damage to them. Any damage to the existing HAD's facility due to the proposed development, the applicant should repair the facility to HAD's satisfaction at his own cost.

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

- (a) Commissioner of Police (C of P);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (c) Project Manager/West, Civil Engineering and Development Department (PM(W), CEDD).

10. Public Comments Received During Statutory Publication Period

10.1 The application and the FI have been published for 3 weeks on 13.2.2018 and 25.5.2018 respectively for public inspection. During the statutory inspection periods, a total of 118 public comments were received:

Public Inspection Periods	Comments received		
	Support	Object	Total
13.2.2018 – 6.3.2018 (Original submission with planning statement)	0	15 (Appendices III-1 to 15)	15
25.5.2018 – 15.6.2018 (FI with responses to departmental comments)	95 (Appendices III-24 to 118)	8 (Appendices III-16 to 23)	103
	95	23	118

10.2 A total of 23 public comments objecting the application were received from PHRC, owners/villagers and residents of Yuen Kong San Tsuen, a Yuen Long District Councillor, the Incorporated Owners of Yuen Kong Wai Yee Hong Garden, Village Representatives of Yuen Kong San Tsuen, Yuen Kong Tsuen and Tai Wo Tsuen with 557 signatures of the villagers, Kam Sheung Road Development Concern Group/Shui Lau Tin Village Representative and members of the public. They object to the

application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; incompatible with the existing agriculture activity and residential dwellings in the surrounding; the proposed uses should go through a rezoning process; approval of the application may generate conflicts between Muslims and the local residents due to cultural and religious differences; the proposed development will have adverse traffic, pedestrian safety, sewage and visual impacts, noise and flooding problems, affecting the tranquil living environment and create nuisances and security issues to the neighbourhood; affecting the ‘Fung Shui’ of Yuen Kong Tsuen , Yuen Kong San Tsuen and nearby villages; the applicant did not communicate with local villagers regarding the application; no technical assessments (besides TIA) and report in Chinese in the submission; and approval of application will set an undesirable precedent to other similar applications in the area.

- 10.3 The remaining 95 public comments supporting the application were received from Incorporate Trustees of the Islamic Community Fund of Hong Kong, an individual (one of the Directors of Federal Guards Limited) including a petition letter with 844 signatures, and members of public. They support the application mainly for the reasons that there is no proper mosque in the New Territories; the proposed development is able to satisfy the demand of praying place and kindergarten at an easy accessible location in response to the growing population of Muslim in Kam Tin, Yuen Long district and the New Territories; the proposed use can benefit the ethnic community and provide safe place for worship and study; able to bring social harmony and help to promote the Muslim culture; the proposed kindergarten can provide education to the next generation; will not damage the existing village character nor affect traffic flow; can be an anchor point for government bodies and welfare organizations to hold engagement exercises; and the applicant with strong financial support can deliver the proposed development.

11. Planning Considerations and Assessment

- 11.1 The proposed religious institution (mosque with ancillary facilities) and school are not in line with the planning intention of the “AGR” zone, which is primarily 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. In this regard, DAFC does not support the application from the agricultural point of view as agricultural activities can be found in the vicinity and the Site has potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention. No planning permission for similar use has been granted in the concerned “AGR” zone. Approval of the application would set an undesirable precedent for other similar uses to proliferate into the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.
- 11.2 The proposed mosque and kindergarten comprises two building blocks with a total floor area of about 3,095 m² and a building height of 3 storeys (maximum 32.95 mPD). The surrounding area is rural in character predominated by residential structures/dwellings, plant nursery, cultivated agricultural land, vacant/unused land

and open storage/storage yards. CTP/UD&L of PlanD considers that the proposed development is not incompatible with existing landscape setting and visual context. Also, CA/CMD2 of ArchSD has no comment from the visual point of view.

- 11.3 On traffic aspect, the applicant stated that the proposed development would induce insignificant impact on the surrounding road network, and the boundary of the Site has been set back to allow widening of the local access road to improve the access arrangement. C for T has no in-principle objection to the proposed access arrangement. However, he has reservation on the application as the applicant has not submitted sufficient information to demonstrate that the proposed development would not cause significant adverse traffic impact to the surrounding. Regarding the noise impact, while the applicant stated that a noise assessment on surrounding open storage use and Kam Sheung Road would be conducted at detailed design stage, DEP cannot lend support to the application as the applicant did not ascertain the environmental acceptability and demonstrate how the potential noise impacts could be adequately avoided or mitigated. CTP/UD&L of PlanD also has reservation on the application as detailed landscape proposal regarding the landscape treatment is missing in the submission and the feasibility of the proposed landscape is in doubt. Also, the proposed development, if approved, would set an undesirable precedent and encourage similar development in the “AGR” zone, thus altering the landscape character of the “AGR” zone. In view of the above, there is no sufficient information in the application to demonstrate that the proposed development would not generate adverse traffic and landscape impact to the surrounding areas and would not be subject to adverse environmental impact.
- 11.4 Regarding the sewerage impact, the applicant proposed septic tank and soakaway system or a small sewage treatment plant to treat the sewerage from the proposed development. DEP advised that his concern on the sewerage aspect should be addressed at the detailed design stage and recommended to impose an approval condition on the submission of a sewage treatment review report and provision of proper sewage treatment facilities. Other concerned departments consulted including CE/MN of DSD, D of FS have no in-principle objection to the application.
- 11.5 There are 118 public comments received during the statutory inspection period in which 23 object to the application and 95 support the application with the grounds as set out in paragraphs 10.2 and 10.3 above. In this regard, relevant government departments’ comments and planning assessments as stated 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 in paragraph 10, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone, which 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. There is no strong planning justification in the submission for a departure from the planning intention;

- (b) there is no sufficient information in the application to demonstrate that the proposed development would not generate adverse traffic and landscape impact on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for other similar uses to proliferate into the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid for a period of 4 years until 6.7.2022, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of a landscape and tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission of a revised Traffic Impact Assessment (TIA) and the design and implementation of the road improvement measures as proposed in the revised TIA to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the design and provision of vehicular access, car parking and loading/unloading facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (e) the submission of an environmental assessment and the implementation of mitigation measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (f) the submission of a sewage treatment review report and provision of proper sewage treatment facilities identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;

- (g) the submission and implementation of water supplies for fire fighting and fire service installations proposals to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (h) the submission and implementation of a quantitative risk assessment to the satisfaction of the Director of Electrical and Mechanical Services or of the Town Planning Board.

Advisory clauses

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

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 received on 5.2.2018
Appendix Ia	Supplementary information and plans received on 5.2.2018
Appendix Ib	FI received on 11.5.2018 providing response to departmental comments
Appendix Ic	FI received on 20.6.2018 providing response to departmental comments
Appendix Id	FI received on 26.6.2018 providing response to departmental comments
Appendix Ie	FI received on 27.6.2018 providing response to departmental comments
Appendix II	Previous applications covering the Site

Appendices III-1 to III-118	Public comments received during the statutory publication period
Appendix IV	Advisory clauses
Drawings A-1 to A-4 and A-8	Floor Plans
Drawing A-5	Block Plan
Drawings A-6 and A-7	Elevations and Sections
Drawings A-9 to A-11	Landscape Proposal
Drawings A-12 to A-15	View Points and Photomontages
Plan A-1a	Location Plan
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2018**