

RNTPC Paper No. A/YL-NTM/389
For Consideration by
the Rural and New Town
Planning Committee
on 31.5.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/389

- Applicant** : Wong Yu Hong represented by Kwok Chi Man
- Site** : Lot 3 in D.D. 98 and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
- Site Area** : About 697 m² (including GL of about 106 m² (15.2%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Shop and Services (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 (convenience store) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “OS” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes for the “OS” zone, ‘shop and services (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for parking of vehicles (**Plan A-2**).
- 1.2 According to the applicant, a structure of 2 storeys is proposed to be erected on the Site. The first storey will consist of 4 metal supporting columns for flood prevention purpose and a metal staircase, and no other use will be proposed; and the second storey will be used for the convenience store connected by staircase to the ground. A 9m-diameter vehicle manoeuvring space is proposed at the south-western portion of the Site. 2 parking spaces for private car/light goods vehicle (LGV) are proposed for use by the company and its staff.
- 1.3 The Site is accessible from Kwu Tong Road via a local track with its ingress and egress located at the north-western boundary of the Site. The layout and section plans are at **Drawings A-1 and A-2** respectively. The development parameters of

the application are summarised as follows:

	Major Development Parameters
Site Area	About 697 m ² (GL of about 106 m ²)
Applied Use	Proposed Temporary Shop and Services (Convenience Store) for a Period of 3 Years
No. of Structure (No. of Storey, Building Height)	1 (2 storeys, 8.5m)
Total Floor Area	About 464 m ²
No. of Parking Spaces	2 parking spaces for private car/LGV (2.5m x 5m)
Operation Hours	9:00 a.m. to 7:00 p.m. daily

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

- (a) Application form received on 10.4.2019 **(Appendix I)**
- (b) Letter dated 16.4.2019 providing clarification on proposed use with a revised layout plan and a new section plan **(Appendix Ia)**
- (c) Further Information (FI) dated 23.5.2019 providing clarification on the store design, means of transportation and the provision of boundary fence **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, letter and FI at **Appendices I, Ia** and **Ib** respectively. They can be summarized as follows:

- (a) The proposed development which is temporary in nature and easy for reinstatement upon expiry of the planning permission would not jeopardize the planning intention of the “OS” zone in the long run. It is not incompatible with the surrounding land use which is rural in character.
- (b) The proposed development is a small scale store and will be operated by nearby local residents as a traditional kiosk instead of a chain shop. It would provide daily supplies and instant food to serve the needs of the local community. The structure within the Site will not be used for residential purpose. The design of 4 metal supporting columns for the first storey is to prevent damage to goods in event of flooding during stormy weather.

- (c) Cleaning and refuse collection will be carried out to keep the Site hygienic. The applicant will also follow Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites (CoP) to mitigate potential impacts on the surrounding areas.
- (d) LGV will be used for delivering provisions to and from the Site. There will be 1 to 2 staff operating the store. The delivery trips to and from the Site will be low (estimated to be around 2 and 4 trips for LGV and private car respectively per day). No queuing of traffic will be generated outside the Site, and no vehicle is allowed to reverse onto the Site. The operator will remind all customers not to drive to the shop as no parking space for visitors will be provided. Besides, the vehicular access to the Site is straight with no obvious bend. No adverse traffic impact and safety issue will be envisaged.
- (e) No tree felling, filling of pond and land excavation works will be involved. The proposed development will not generate harmful waste or pollutant, and no water main will be affected. No adverse environmental impact on the surrounding areas will be envisaged. Boundary fence will be provided to cover the whole site.

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

The applicant is not a “current land owner” of the Site 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 notice to San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Application

5.1 The Site is the subject of an approved previous application No. A/DPA/YL-NTM/24 covering a larger site submitted by a different applicant for proposed container trailer park. The application was approved with conditions by the Committee on 5.8.1994 for a period of 3 years mainly for reasons that the development would not frustrate the long-term planning intention for the area, and was unlikely to generate significant adverse traffic, environmental and visual impacts on the area given the approval conditions had required provision of mitigation measure. Permission was subsequently granted by the Board on 16.8.1996 for extension of its validity for 1 year until 5.8.1997.

5.2 Details of this application are summarized at **Appendix II**. Its location is shown on **Plan A-1**.

6. Similar Applications

6.1 There are 5 applications for temporary shop and services uses within “OS” zone on Ngau Tam Mei OZP, all of which involve sales office of goods vehicles. However, there is no similar application for temporary shop and services involving convenience store within the “OS” zone.

6.2 The 5 applications for temporary shop and services uses (sales office for sale of goods vehicles) were approved with conditions by the Committee mainly for reasons that the applied uses were generally in line with the planning intention of the “OS” zone and TPB-PG-No. 13D or 13E; the developments at the sites were not incompatible with the surrounding uses; the approvals were in line with the Committee’s previous decisions; and relevant Government departments generally had no adverse comments on/objecting to the application. 2 of them were subsequently revoked due to non-compliance with approval conditions.

6.3 Details of these applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Kwu Tong Road via a local track;
- (b) hard-paved and fenced; and
- (c) currently used for parking of vehicles.

7.2 The surrounding areas are intermixed with scattered residential dwellings, storage/open storage yards, warehouses, agricultural land, vehicle showroom, car service use and vacant/unused land:

- (a) to its immediate north and south are scattered residential dwellings; further north is agricultural land and across Kwu Tung Road are storage yard of vehicles, site for car services use and some unused land;
- (b) to its northwest, northeast and southwest are mainly open storage yards of vehicles/plastic waste/sand, storage yards, warehouses, vehicle showroom, workshop and some unused land with a grave at its further northeast; and
- (c) to its southeast are some unused land in Conservation Area (“CA”) zone.

8. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

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 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) No permission is given for occupation of GL of about 106 m² in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible from Kwu Tung Road through both GL and private land. LandsD provides no maintenance works for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the application, the lot owners will need to apply to LandsD to permit the structures to be erected or regularize any irregularity on site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. 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

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

- (a) Only private car and light goods vehicle are allowed to access the Site.
- (b) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) HyD does not and will not maintain the vehicular access connecting the Site and Kwu Tung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

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

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

Environment

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

He has no comment on the application. The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issue by DEP to minimize potential environmental impacts on the surrounding area.

Nature Conservation

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

Noting that the Site is located within “OS” zone and the Site is disturbed, he has no comment on the application from nature conservation perspective. Should the application be approved, the applicant is advised to adopt appropriate measures to avoid causing disturbance or pollution to

the adjacent “CA” zone. Trees on GL within or adjacent to the Site should also be preserved.

Fire Safety

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

- (a) He has no objection in principle 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 FSD for approval. The applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) He has no in-principle objection under the Buildings Ordinance (BO) to the proposed use at the Site.
- (b) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and his department is not in a position to offer comments on their suitability for the use related to the application.
- (c) The following issues should be observed by the applicant:
 - (i) if the existing structures are erected on leased land without approval of the BD, they are unauthorized under the BO and should not be designated for any approved use under the application;
 - (ii) before any new building works (including containers and open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be

obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (iii) for UBW erected on leased land, enforcement action may be taken by the BA 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 works or UBW on the Site under the BO;
- (iv) 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) Regulation (B(P)R) respectively; and
- (v) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Drainage

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) Should the application be approved, the applicant should be advised on the followings:
 - (i) he notes that the applicant implemented the drainage facilities on site under previous planning application no. A/DPA/YL-NTM/24. However, the development parameter of the previous application differs from that of the present application. In this respect, the applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his Site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations and charts should be included. (Guideline on preparation of the drainage proposal is available in DSD homepage at http://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf). Should additional drainage works be required, the applicant is reminded that

approval of the drainage proposal must be sought prior to the implementation of drainage works on site;

- (ii) after completion of the required drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs;
- (iii) the applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas;
- (iv) no public sewerage maintained by his office is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained;
- (v) the applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction;
- (vi) the applicant should consult DLO/YL regarding all the proposed drainage works outside the site boundary in order to ensure the unobstructed discharge from the Site in future; and
- (vii) all the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on Site under proper maintenance during occupancy of the Site.

Landscaping

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

It is noted that the proposed use is not within the landscape sensitive areas and no significant landscape impact is envisaged. In consideration that there is no prominent public frontage around the Site, landscape condition is not recommended as its effect on enhancing the quality of public realm is not apparent.

Others

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

The applicant is reminded that no obstruction caused to the vicinity would be tolerated. There is no other comment from Lok Ma Chau Division of

Hong Kong Police.

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

- (a) For the operation of any types of food business, relevant food license(s) and/or permit(s) should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132).
- (b) If the proposal involves any commercial/trading activities, its state should not as to be a nuisance or injurious or dangerous to health and surrounding environment. For any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

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

- (a) The applicant shall approach 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 or in the vicinity of the Site. Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the Site, the applicant shall carry out the following measures:
 - (i) for Site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV or above as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) published by PlanD, prior consultation and arrangement with CLP Power is necessary;
 - (ii) prior to establishing any structure within the Site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask CLP Power to divert the underground cable and/or overhead line away from the vicinity of the proposed structure; and
 - (iii) the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

He has no comment on the application and the local comments should be submitted to the Board directly, if any.

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

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

10. **Public Comment Received During Statutory Publication Period**

On 23.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 14.5.2019, no public comment was received.

11. **Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services (convenience store) for a period of 3 years. The Site falls within “OS” zone which is intended primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. The proposed use which is temporary in nature is not in conflict with the planning intention of the “OS” zone. It can serve the local needs of the neighbouring developments, and is considered not incompatible with the surrounding land uses which are mostly scattered residential dwellings, storage/open storage yards and warehouses (**Plan A-2**).
- 11.2 Relevant Government departments including DAFC, DEP, C for T, C of P, CE/MN of DSD and CTP/UD&L of PlanD have no adverse comment on the application from the ecological, environmental, traffic, policing, drainage and landscape planning point of view. The technical requirements from CE/MN of DSD and D of FS could be addressed by imposing the approval conditions recommended in paragraphs 12.2 (d) to (h) below. To mitigate any potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours and traffic arrangement have been recommended in paragraphs 12.2 (a) to (c) below. Any non-compliance with these approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. The applicant should also be advised to follow the “Code of

Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

11.3 The Committee has approved 5 similar applications involving shop and services (sales office for sale of goods vehicles) uses within the same “OS” zone based on similar considerations. Approval of the subject application is in line with the previous decisions of the Committee.

11.4 No public comment was received during statutory publication period.

12. Planning Department’s Views

12.1 Based on the assessments in paragraph 12, 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 31.5.2022. 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 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars and light goods vehicles not exceeding 5.5 tonnes as defined in the Road Traffic Ordinance are allowed to be parked on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (d) the submission of a 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 30.11.2019;
- (e) in relation to (d) above, the implementation of the 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 29.2.2020;
- (f) in relation to (e), the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 30.11.2019;

- (h) in relation to (g) above, the provision of fire service installations 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 29.2.2020;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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 IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "OS" zone, which is intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage use. There is no strong planning justification in the submission for a departure from such 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 10.4.2019
Appendix Ia	Letter dated 16.4.2019
Appendix Ib	FI dated 23.5.2019

Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Section Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2019**