

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

**APPLICATION NO. A/YL-NTM/374**

<b><u>Applicant</u></b>	Tang Wai Ip
<b><u>Site</u></b>	Lot No. 2616 (Part) in D.D.104, Ngau Tam Mei, Yuen Long
<b><u>Site Area</u></b>	1,312 m <sup>2</sup> (about)
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<b><u>Zoning</u></b>	“Residential (Group D)” (“R(D)”) [maximum plot ratio: 0.2, maximum building height: 2 storeys (6m)]
<b><u>Application</u></b>	Proposed Temporary Shop and Services (Real Estate Office and Transportation Office) with Ancillary Car Park and Storage 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 (real estate office and transportation office) with ancillary car park and storage (**Plan A-1a**) for a period of 3 years. The Site is subject of two previous applications (No. A/YL-NTM/234 and A/YL-NTM/285) submitted by a different applicant. The last planning application No. A/YL-NTM/285 for the same temporary use as in the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 8.2.2013 for a period of 3 years but the permission was revoked on 8.8.2013 due to non-compliance of approval conditions. Part of the Site is currently used for storage/workshop/vehicle parking without valid planning permission.
- 1.2 As shown in **Drawing A-2**, the Site is accessible directly from Ngau Tam Mei Road. The proposed development includes a real estate office, a transportation office, and storages. The layout plan is at **Drawing A-1**. As compared with the previous approved application No. A/YL-NTM/285, the current application is for the same uses with similar site area and increases in the number of structures and non-domestic GFA. The major parameters are summarised in the following table:

Site Area	1,312 m <sup>2</sup>
Total Floor Area	326.73 m <sup>2</sup>
No. of Storeys	1-2 (2.7-6.4m)
No. of Structures	10 (including 4 open sheds)
Parking Spaces	10 private car parking spaces
Operation Hours	9:00am to 6:00pm on Mondays to Sundays, including public holidays

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

- (a) Application Form with supplementary information received on 24.9.2018 **(Appendix I)**
- (b) Letter received on 25.10.2018 clarifying the trip generation rate and provision of ancillary car park **(Appendix Ia)**
- (c) Letter received on 30.10.2018 clarifying the nature of the transportation office and the proposed structures **(Appendix Ib)**

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

The justifications put forth by the applicant in support of the application are detailed at **Appendices I, Ia and Ib** which are summarised as follows:

- (a) The application is temporary in nature without permanent structures which does not lead to a departure from the long term planning intention. The proposed transportation office is solely for general office purpose for clerical work and storing office documents and will not involve with any goods vehicles traffic and loading/unloading activities at the site. The one-storey ancillary storage is for storing the office supplies (e.g. papers and stationary) for the daily operation of the real estate office and transportation office. All structures within the site will not be used for residential purposes **(Appendix Ib)**.
- (b) The ancillary car park is to serve the staff and visitors of the proposed real estate and transportation office use. No vehicle is allowed to queue back to or reverse onto/from the Site at any time. No vehicles exceeding 5.5 tonnes/over 7m in length would be allowed to enter the Site **(Appendix Ia and Ib)**.
- (c) The site development will take into account local characteristics, location and surrounding land uses. Upon approval of the development, the approval conditions on the landscape and drainage aspects could enhance the greening of the area and alleviate the possibility of flooding, benefitting the surrounding areas.

## 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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending registered post to San Tin

Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

#### 4. **Background**

Part of the Site is subject to planning enforcement action against unauthorized development (UD) involving workshop use, storage use (including deposit of containers) and place for parking of vehicles (**Plan A-2**). Enforcement Notice was issued on 11.7.2018 requiring discontinuation of the UD. The UD still continues upon expiry of the notice, the site is under close monitoring with a view to undertaking the appropriate enforcement/prosecution action.

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

5.1 The Site is the subject of two previous applications (No. A/YL-NTM/234 and A/YL-NTM/285) submitted by a different applicant for similar temporary real estate office with ancillary car park/temporary real estate office and transportation office with ancillary car park and storage for periods of 3 years respectively. The applications were approved with conditions by the Committee on 27.3.2009 and 8.2.2013 respectively. The planning permission for Application No. A/YL-NTM/234 expired on 28.3.2012 while that for Application No. A/YL-NTM/285 was revoked on 8.8.2013 due to non-compliance of approval conditions related to submission and implementation/provision of drainage and fire service installations (FSIs) proposals.

5.2 Details of these applications are summarized in **Appendix II**. Their locations are shown on **Plan A-1b**.

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

Within the same "R(D)" zone on the OZP, there is one similar applications (No. A/YL-NTM/290) for temporary real estate office. Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1a**. It was approved for 3 years with conditions by the Committee on 19.4.2013 mainly on grounds that the temporary use would not frustrate the long-term planning intention, was not incompatible with the existing surrounding land uses and would unlikely have significant adverse impacts on the surrounding area. The application was revoked on 19.10.2013 due to non-compliance with approval conditions.

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

7.1 The Site is:

- (a) paved and fenced off, and occupied by some temporary structures;
- (b) part of the Site is currently being used for storage/workshop/vehicle parking; and
- (c) accessible directly from Ngau Tam Mei Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north across Ngau Tam Mei Road is a low-rise private residential

development, La Maison Vineyard and some other residential dwellings, two open storage yards for construction machinery and materials as well as parking of used vehicles in “Residential (Group C)” zone which are suspected UD;

- (b) to the immediate east are the residential dwellings in temporary structures of Yau Tam Mei San Tsuen;
- (c) to the south is an abandoned meander and further south is a nullah; and
- (d) to the immediate west are storage areas, residential dwelling and an open storage of construction materials which is a suspected UD.

## **8. Planning Intention**

The planning intention of the “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

## **9. Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views 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 Scheduled Agricultural Lot under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The Site is accessible from Ngau Tam Mei Road through both Government Land and private land. His office does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given, the lot owner 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the 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) No comment from traffic engineering point of view.
- (b) Should the application be approved, the following conditions should be incorporated:
  - (i) only private car is allowed to access the Site; and
  - (ii) 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) The proposed access arrangement of the Site from Ngau Tam Mei Road should be commented by TD.
- (b) His department does not and will not maintain any access connecting the Site and Ngau Tam Mei Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 Chief Engineer/Railway Development 1-1, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

No comment on the application from railway development viewpoint. The Site neither falls within any administrative route protection boundary, gazetted railway schemes boundary, nor railway protection boundary of heavy rail systems.

## **Environment**

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

- (a) DEP has no objection to the application, as it is noted that no heavy vehicle and dusty construction material is involved in the application.
- (b) Should the application be approved, 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.

## **Landscape**

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

- (a) He has no objection to the application from the landscape planning perspective.

- (b) The Site, located at the south of La-Maison Vineyard and Ngau Tam Mei Road, and east of San Tam Road, falls within an area zoned “R(D)” on the approved NTM OZP No. S/YL-NTM/12. The Site is involved in 2 previous planning applications (Application Nos. A/YL-NTM/234 and 285). The last Application No. A/YL-NTM/285 for the same use, to which he had no objection from landscape planning point of view, was approved with conditions by the Board on 8.2.2013.
- (c) Compared the aerial photo of 2013 to the latest photo of 2017, there is no significant change in the rural landscape character where the Site is located. The surrounding area comprises of low-rise residential houses, village houses, some temporary structures, car park and tree groups. The Site with an access abuts Ngau Tam Mei Road. The proposed use is considered not incompatible with the landscape setting in proximity.
- (d) According to the site visit conducted on 4.10.2018, the Site was fenced off and hard paved with temporary structures. Existing trees were found along the periphery of the Site. Two dead trees were found in the northeastern corner and southeastern corner of the Site. Significant changes or disturbances to the existing landscape character and resources arising from the proposed use are not anticipated.
- (e) Though some existing trees were found outside the northeastern part of the Site along Ngau Tam Mei Road, to further alleviate visual impact to the road users and the adjacent residents, tree plantings at the western side of ingress/egress of the Site are recommended.
- (f) Two dead trees were found and some materials/debris was placed near the other trees. The Applicant is required to provide replacement trees and remove those material/debris from the tree protection zone.
- (g) Should the application be approved by the Board, the following approval condition is suggested to be included in the planning approval:

Submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board.

### **Nature Conservation**

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

- (a) Noting that the Site has been paved and used for similar purposes for a number of years, he has no strong view on the application from nature conservation perspective.
- (b) Nevertheless, there is a retained meander located to the south of the Site. Should the application be approved, the applicant should be reminded to avoid disturbing the vegetation on the embankment of the meander and adopt necessary measures to prevent polluting the meander during operation.

### **Drainage**

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

He has no objection to the proposed development from public drainage point of view. Should the Board approve the application, conditions should be stipulated requiring:

- (i) submission of a drainage proposal of the development to the satisfaction of the Director of Drainage Services or of the Board; and
- (ii) implementation of the drainage proposal of the development to the satisfaction of the Director of Drainage Services or of the Board.

### **Fire Services**

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 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 with the proposed FSIs incorporated for his approval. In addition, 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 are to be installed should be clearly marked on the layout plans.
- (c) However, 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**

9.1.10 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.

### **Other Comments**

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

- (a) There is no comment in principle subject to no activities in any form, whatsoever associated with Parallel Trading/General Merchandize Operations activities or illicit refuelling activities.
- (b) Ngau Tam Mei Road is restricted from any vehicle over 7 meters in length. Therefore, the carpark must not be for these vehicles.

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

9.1.12 Comments of District Officer (Yuen Long) (DO(YL)):

His office 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) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);



- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Director of Leisure and Cultural Services (DLCS).

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

On 2.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 23.10.2018, 2 public comments were received including an objecting comment from a Yuen Long District Councillor raising concern that the area is more congested than before and the application being previously revoked shall not be granted approval. Another individual provided comment that the previous planning permission has been revoked due to failure to comply with the drainage and fire safety conditions and the Board should consider whether the use should be granted approval (**Appendix IV**).

## **11. Planning Considerations and Assessment**

- 11.1 The planning intention of the “R(D)” zone is intended for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings and for low-rise, low-density residential developments subject to planning permission from the Board. The proposed use is not in line with the planning intention of the “R(D)” zone. However, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “R(D)” zone as there is no immediate development proposal for the site. The applied use is not incompatible with the surrounding land uses, comprising mainly low-rise low density residential dwellings and village houses to its north and south across Chun Sin Road, and a village environment setting within area zoned “V” to its farther east, and scattered open storage yards and vehicle parks in vicinities. The proposed real estate office and transportation office can also provide services to the nearby residents and the local community.
- 11.2 Relevant departments including DAFC, DEP, C for T, C of P, CE/MN of DSD and UD&L of PlanD have no adverse comment on the application from the ecological, environmental, traffic, drainage and landscape planning point of view. To mitigate any potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours, and requiring provision of fencing, submission and implementation of drainage, landscape and FSIs proposals are recommended in paragraphs 12.2 (a), (d) to (j) below. Non-compliance with any of the 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. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts.
- 11.3 Two public comments raising objection/concern were received. Regarding the view that previous planning permission was revoked, it should be noted that the application was submitted by a different applicant. As to other concerns raised, the planning assessment in para. 11.2 above is relevant.

## 12. **Planning Department's Views**

- 12.1 Based on the assessment in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the 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 16.11.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no night-time operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site at all times 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 provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 16.5.2019;
- (e) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.5.2019;
- (f) in relation to (e) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.8.2019;
- (g) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 16.5.2019;
- (h) in relation to (g) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 16.8.2019;
- (i) the submission of 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 16.5.2019;
- (j) in relation to (i) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 16.8.2019;
- (k) if any of the above planning conditions (a), (b) or (c) is not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and

- (l) if any of the above planning conditions (d), (e), (f), (g), (h), (i) or (j) 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

12.3 The recommended advisory clauses are at **Appendix V**.

**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 conditions and advisory clauses, 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 reasons for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application form received on 24.9.2018
<b>Appendix Ia</b>	Letter dated 25.10.2018 clarifying the trip generation rate and provision of the ancillary car park
<b>Appendix Ib</b>	Letter dated 30.10.2018 clarifying the nature of the transportation office and the proposed structures
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar applications within the same “R(D)” zone on the OZP
<b>Appendix IV</b>	Public comment received during the statutory public inspection period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Existing Vehicular Access
<b>Plan A-1a</b>	Location Plan with Similar Application
<b>Plan A-1b</b>	Previous Application Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2018**