

RNTPC Paper No. A/YL-PH/824  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 3.1.2020

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

**APPLICATION NO. A/YL-PH/824**

- Applicant** : 香港非洲人協會
- Site** : Government Land in D.D. 111, Pat Heung, Yuen Long, New Territories
- Site Area** : 283m<sup>2</sup>
- Land Status** : Government Land
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)  
[maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Place of Recreation, Sports or Culture 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 place of recreation, sports or culture for a period of three years. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The south-western part of the Site is subject to 2 previous applications for temporary public car / lorry park and open storage uses. The former was approved on a temporary basis of 3 years and the latter was rejected by the Rural and New Town Planning Committee (the Committee), both in 1997. The Site is currently vacant.
- 1.2 According to the applicant, the proposed development will serve as a community recreation centre for the Hong Kong African Association (a non-profit making charity) to organize various activities related to African culture and interest classes. The proposed development will comprise three converted containers (1 storey / not more than 3.5m in height each) with a total floor area of about 54m<sup>2</sup> for library, study room, activity room and multi-function room. The proposed development will be open to the general

public, and the operation hours are 11 am to 10pm daily. The Site is accessible from Kam Tin Road via a local track. No parking space or loading / unloading space will be provided within the Site. According to the applicant, it is estimated that the number of participants to be accommodated at the Site will be about 20 people at any one time, and 40 to 50 people if there are events being held. No public announcement system and portable loudspeaker will be used at the Site, and all activities will take place indoors. The location plan and site layout plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form with plans and planning statement (Appendix I) received on 5.11.2019
- (b) Further Information (FI) received on 23.12.2019 in response to departmental comments (Appendix Ia) (*exempted from publication*)

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

The justifications put forth by the applicant in support of the application are detailed in section 7 of the application form and the planning statement in **Appendix I** and FI in **Appendix Ia**. They can be summarized as follows:

- (a) The proposed development will be used as a community recreation centre by the Hong Kong African Association for organizing various activities and classes to promote African culture for all members of the public, so as to eliminate the public's misunderstanding of African culture and achieve social inclusion.
- (b) Currently, the applicant needs to borrow venues for their daily operation, and occasionally needs to hold meetings at public parks, which brings a lot of inconvenience.
- (c) No vehicular traffic will be induced due to the site operation.
- (d) The applicant intends to apply for a temporary approval of 3 years as a pilot scheme and will improve any inadequacy.

## 3. **Compliance with the "Owner's Consent/Notification" Requirements**

As the Site involves Government Land only, the "owner's consent / information" requirement 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) is not applicable to the application.

#### 4. **Background**

- 4.1 The Site is not subject to planning enforcement action.
- 4.2 The same applicant previously submitted an application (No. A/YL-KTS/756) for the same use at a vacant school premises at Shek Wu Tong (i.e. ex-Shek Wu Public School) in the "V" zone on the Kam Tin South OZP (**Plan A-5**). The proposed development involved a site area of about 1,137m<sup>2</sup> and total floor area of about 265m<sup>2</sup>. The application was approved with conditions by the Committee on 16.3.2018 mainly for the reasons that the application utilized a vacant school and temporary approval would not frustrate the long-term planning intention; the proposed development was not incompatible with the surrounding area and would unlikely cause adverse environmental, traffic, landscape, drainage and fire safety impacts on the surrounding area; and concerned departments had no adverse comment on the application. However, the application was revoked on 16.9.2018 due to non-compliance with approval conditions. According to the applicant, the proposed development was not taken forward due to access issue (objection from the landowner of the access road).

#### 5. **Previous Applications**

- 5.1 The south-western part of the Site was subject to two previous applications. Details of the application are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-PH/88 for temporary public car / lorry park was approved with conditions by the Committee on 16.5.1997 for 3 years for the reasons that although the proposed development was not in line with the planning intention of the “V” zone, it could satisfy some of the parking demand from local villagers; the proposed public car / lorry park was compatible with and supporting the surrounding village type development; and no adverse departmental comments were received.
- 5.3 Application No. A/YL-PH/117 for temporary open storage of vehicles (brand new left-hand drive private cars and light goods vans) for 12 months was rejected by the Committee on 22.8.1997 mainly on the grounds that the proposed development was not in line with the planning intention of the “V” zone; it was not compatible with the adjacent residential developments; there was no strong justification for a departure from the planning intention even on a temporary basis; and the approval of the application would set an undesirable

precedent for similar applications, the cumulative effect of which would degrade the environment of the area.

**6. Similar Application**

There is no similar application for temporary place of recreation, sports or culture within the same “V” zone on the OZP.

**7. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

7.1 The Site is:

- (a) vacant and hard paved; and
- (b) accessible via a local track leading from Kam Tin Road (about 20m) to its north.

7.2 The surrounding areas are rural in character intermixed with residential structures / dwellings, homes for the aged, open storage yards, parking of vehicles and vacant / unused land (**Plan A-2**). Some of the open storage yards and parking of vehicles are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to its immediate south and west are vacant land and a local track respectively. To its further south and west are residential structures / dwellings and open storage yards;
- (b) to its southeast are homes for the aged and parking of vehicles; and
- (c) to its immediate north is an open storage yard. Further north across Kam Tin Road are residential structures / dwellings, parking of vehicles and vacant / unused land.

**8. Planning Intention**

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the need of the villagers and in support of the village development are always permitted on the ground floor of a

New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

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

9.1 The following Government departments have been consulted and their views 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 Government Land (GL) having an area of about 283m<sup>2</sup>, of which the actual site area and boundary of the GL involved will be subject to verification upon receipt of short term tenancy (STT) application, if any.
- (b) The Site is subject to a maximum height of 69mPD under the relevant plan for the Shek Kong Airfield Height Restriction.
- (c) Should the application be approved, the applicant should be reminded that necessary policy support from the Secretary for Home Affairs (S for HA) for STT application of the Site would be required to implement the proposal. Upon receipt of the STT application with policy support being given by S for HA, LandsD will consider the application in accordance with applicable policy and practice and there is no guarantee that the application will be approved. The application, if approved, will be subject to such terms and conditions, to be imposed by LandsD in the landlord capacity at its sole discretion.
- (d) There is no Small House application under processing and approved at the Site.

### **Traffic**

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

Considering that there is neither parking provision nor vehicular access and the induced traffic is minimal, he has no comment on the application.

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

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

**Environment**

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

- (a) Provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause environmental nuisance to nearby sensitive receivers, she has no objection to the application from environmental planning perspective subject to the following approval conditions:
  - (i) the proposed development should only be operated between 11am and 10pm on the Site, as proposed by the applicant, during the planning approval period; and
  - (ii) no public announcement system, whistle blowing, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period, as proposed by the applicant.
- (b) The applicant is also advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites” issued by the DEP to minimise any potential environmental nuisance. Adequate supporting infrastructure / facilities should be provided for proper collection, treatment and disposal of waste / wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD’s Practice Note for Professional Person (ProPECC) PN 5/93

“Drainage Plans subject to Comment by the Environmental Protection Department”.

### **Nature Conservation**

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

According to the aerial photo of 2018, the Site is paved and disturbed in nature. As such, he has no comment on the application from nature conservation perspective.

### **Drainage**

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

- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **Fire Safety**

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI 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 (BO) (Cap.

123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Environmental Hygiene**

9.1.8 Comments of the Director of Food, Environment and Hygiene (DFEH):

- (a) No environmental / hygiene nuisance should be generated to the surroundings. Also, for any waste generated from the commercial / trading activities, the applicant should handle on their own / at their expenses.
- (b) Proper licence / permit issued by his department is required if food business or related place of entertainment is involved.

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

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

He has not received any comments from locals upon close of consultation and he has no particular comments on the application.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Project Manager (West), Civil Engineering and Development Department;
- (c) Commissioner of Police;
- (d) Chief Engineer / Construction, Water Supplies Department;
- (e) Race Relations Unit, Home Affairs Department; and
- (f) Director of Leisure and Cultural Services.

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

On 15.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, a total of 24 public comments (**Appendices III-1 to III-24**) were received from the Pat Heung Rural Committee, individual members of the Pat Heung Rural Committee, various Village Representatives of villages in Pat Heung, a nearby land owner and individuals. All of them object to the application on the following grounds:



- (a) there are already many foreigners gathering and staying late near the Site, causing nuisance to the people passing by. The proposed development would attract more foreigners to the area, which would disturb the locals and pose a security threat. There may be inappropriate activities carried out in the proposed development;
- (b) the proposed development would result in adverse traffic, pedestrian safety, noise, drainage, landscape, sewerage and hygiene impacts, and affect the living environment of the village;
- (c) no FSIs have been proposed, thus the proposed development may pose a fire risk. Also, the proposed activities cannot be carried out in the proposed small containers safely; and
- (d) approval of the application would set an undesirable precedent on GL.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary place of recreation, sports or culture for a period of three years in the “V” zone. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the need of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. Although the application is not in line with the planning intention of the “V” zone, DLO/YL, LandsD advised that there is no application for Small House under processing or approved within the Site. It is considered that temporary approval for a period of 3 years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed temporary development comprising 3 one-storey converted containers is considered not incompatible with the surrounding area, which is rural in character and intermixed with residential structures / dwellings and vacant / unused land.
- 11.3 According to the applicant, the proposed temporary place of recreation, sports of culture would serve as a community recreation centre for organizing various activities to promote African culture. The applicant has advised that the Site will accommodate about 20 people at any one time, and 40 to 50 people if there are events being held. Also, no public announcement system and portable loudspeaker will be used at the Site, and all activities will take place indoors. The Site is also located at the fringe of the “V” zone and accessible via a short

stretch of local track to Kam Tin Road. The proposed use would unlikely cause adverse environmental, traffic, drainage, and fire safety impacts on the surrounding areas. Relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and use of portable loudspeakers or any audio amplification system are recommended in paragraphs 12.2 (a) to (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses”. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (g) below.

- 11.4 The Site is not subject to any previous application, and there is no similar application for temporary place of recreation, sports or culture within the same “V” zone.
- 11.5 24 public comments were received during the statutory public inspection period, all of them object to the application as stated in paragraph 10 above. In this regard, relevant Government departments’ comments as well as planning assessments and considerations as stated above are relevant. An advisory clause is also recommended to advise the applicant to liaise with the locals on the proposed use at the Site.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary place of recreation, sports or culture for a period of 3 years.
- 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 3.1.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 10:00pm and 11:00am, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no public announcement system, whistle blowing, portable loudspeakers or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) 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 3.7.2020;
- (d) in relation to (c) 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 3.10.2020;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 3.7.2020;
- (g) in relation to (f) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.10.2020;
- (h) if any of the above planning condition (a), (b) or (e) 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
- (i) if any of the above planning condition (c), (d), (f) or (g) 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 at **Appendix IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:

- (a) the proposed development is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses

by indigenous villagers. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and

- (b) approval of the application will set an undesirable precedent for similar applications in the same “V” zone. The cumulative effect of approving such applications will diminish the supply of land in the “V” zone for development of Small House.

**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**

<b>Appendix I</b>	Application Form with Plans received on 5.11.2019
<b>Appendix Ia</b>	FI received on 23.12.2019
<b>Appendix II</b>	Previous applications
<b>Appendices III-1 to III-24</b>	Public comments received during the statutory publication period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Application Plan

<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos
<b>Plan A-5</b>	Location Plan of Application No. A/YL-KTS/756

**PLANNING DEPARTMENT  
JANUARY 2020**