

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

**APPLICATION NO. A/YL-LFS/324**

- Applicant** : Mrs. TANG CHEUNG Kwan Ying and Mr. TANG Tim Fuk
- Site** : Lots 1477 S.A, 1477 S.N, 1477 S.O and 1477 S.P in D.D. 129, Mong Tseng Wai, Lau Fau Shan, Yuen Long
- Site Area** : about 216.5 m<sup>2</sup>
- Lease** : Block Government Lease (demised as agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8
- Zoning** : “Village Type Development” (“V”)  
(Restriction : maximum of 3 storeys (8.23 m<sup>2</sup>))
- Application** : Proposed Flat with Shop and Services and Minor Relaxation of Building Height Restrictions

**1. The Proposal**

- 1.1 The applicants seek planning permission to use the application Site (the Site) for a proposed flat with shop and services and minor relaxation of the building height restriction from 8.23m to 13.16m (4 storeys) (**Drawings A-1 and A-5**). The Site falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP for “V” zone, no new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum building height of 3 storeys (8.23m) or the height of the building which was in existence on the date of the first publication in the Gazette of the notice of the interim development permission area plan, whichever is the greater. According to the Notes of the OZP for “V” zone, “Flat” is a Column 2 uses which requires planning permission from the Town Planning Board (the Board). The Site is currently being vacant (**Plan A-2**).
- 1.2 The Site is accessible via a local track from Deep Bay Road and the ingress/egress is located at the north-eastern boundary of the Site (**Plan A-2 and Drawing A-1**). As shown on the proposed floor plans (**Drawings A-2 and A-3**), elevation plans (**Drawings A-4 and A-6**) and section plan (**Drawing A-7**), the proposed development will provide a total gross floor area (GFA) of about 395.2 m<sup>2</sup> for 3 flats (296.4 m<sup>2</sup>) and 1 shop (98.8 m<sup>2</sup>) on the ground floor in a building of 4 storeys (13.16 m<sup>2</sup>) and 3 private car parking spaces with a site coverage of about 45%.

- 1.3 A comparison of the major development parameters of the application and the restrictions under the “V” zone of the OZP is given in the following table:

Major Development Parameters	Current Application (A/YL-LFS/324) (a)	Restriction under the “V” zone of the OZP (b)	Difference (a) - (b)
Total Site Area	about 216.5 m <sup>2</sup>	-	-
Total No. of Structure	1	-	
Total Gross Floor Area	395.8 m <sup>2</sup>	-	-
No. of storey	4	3	+1 (+33.33%)
Average Flat Size	98.8 m <sup>2</sup>	*	
Maximum Building Height	13.16m	8.23m	+4.93m (+59.9%)
Total No. of Carparking Space	3	-	-

\* Primarily intended for development of Small Houses by indigenous villagers (roofed-over area not exceeding 65.03m<sup>2</sup>)

- 1.4 In support of the application, the applicants have submitted the following documents:

(a) Application form dated 19.6.2018 **(Appendix I)**

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

The justifications put forth by the applicants in support of the application are detailed in the supplementary planning statement at **Appendix I**. They are summarized as follows:

- (i) The proposed flat with shop and services (convenience shop or coffee shop on the ground floor) can cater for the housing need of the society and daily needs of the local villagers and increase job opportunities in the village.
- (ii) Home Affair Department completed a drainage channel in May 2017 which passed through Lot 1477 S.A and resolved the flooding problem in the surrounding areas.
- (iii) A similar application No. A/YL-LFS/80-4 for residential development has been approved, which is about 600m away from the Site (**Plan A-1**).
- (iv) Due to the inequality of concessionary right and the low birth rate in the village, the proposed development can maximize the land utilization.
- (v) The building would be developed into a smart green home with solar lighting and provide more residential flats in the village.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C) are relevant to this application. According to the said Guideline, the Site falls within the Wetland Buffer Area (WBA) (**Plan A-1**). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds;
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA;
- (c) within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment would also need to be submitted. Development/redevelopment which may have negative impacts on the ecological value of the WCA would not be supported by the Board, unless the ecological impact assessment can demonstrate that the negative impacts could be mitigated through positive measures. The assessment study should also demonstrate that the development will not cause net increase in pollution load to Deep Bay; and
- (d) In addition to ecological consideration, other planning considerations including development intensity, compatibility with the surrounding land uses, environmental impact (e.g. noise, air and water qualities), traffic and drainage impacts, provision of infrastructure and visual impact are also important in the assessment of an application within the Deep Bay Area.

**5. Previous Application**

The Site is not a subject of any previous application.

**6. Similar Application**

There is no similar application within the same “V” zone on the OZP.

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

7.1 The Site is:

- (a) currently vacant;
- (b) located in the village settlement of Mong Tseng Wai and WBA of Deep Bay Area; and
- (c) accessible via a local track from Deep Bay Road.

7.2 The surrounding areas have the following characteristics:

- (a) predominately residential structures, fallow agricultural land, unused land and pond; and
- (b) in the vicinity are parking of vehicles and open storage yards which are suspected unauthorized developments (UDs).

**8. Planning Intention**

The planning intention of the “V” zone in the draft Lau Fau Shan & Tsim Bei Tsui OZP No. S/YL-LFS/8 is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. According to the Notes of the OZP for “V” zone, no new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum building height of 3 storeys (8.23m) or the height of the building which was in existence on the date of the first publication in the Gazette of the notice of the interim development permission area plan, whichever is the greater.

**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 (DLO/YL):

- (a) The application lots are Old Scheduled agricultural lots held under the Block Government Lease and are within the Village Environs Boundary (VEB) of Mong Tseng Wai.

- (b) There is no small house application having been approved or under processing within the “V” zone portion of the sites.
- (c) Land within “V” zone is primarily reserved for development of New Territories Exempted House by Indigenous Villagers under the NT Small House Policy.
- (d) Non-small house policy land exchange/modification will not normally be entertained within defined village environs or “V” zone for recognised N.T. villages.

### **Traffic**

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NTW, TD):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site or its adjacent area. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under TD’s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site. Any public roads (including but not limited to Deep Bay Road) would be maintained by HyD.

### **Urban Design and Visual**

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

- (a) The application seeks for minor relaxation of building height restrictions to develop a 4-storey structure (13.16m high) for residential flat and shop and services uses with 3 private car parking spaces at the application site, which falls within the "V" zone on the Draft Lau Fau Shan & Tsim Bei Tsui OZP No. S/YL-LFS/8. The application site is located in the centre of a "V" zone and surrounded by low-rise village houses and structures of 1-3 storeys.
- (b) Although it is low-rise in nature, the proposed development at the

centre of the "V" zone has a built form that is incompatible with the surrounding development, including a proposed 4.93m (59.9%) increase in building height as compared to a generic New Territory Exempted House of 8.23m in a "V" zone, together with a much larger building footprint compared to the surrounding development. Besides, the proposal lacks design merit to justify the minor relaxation of building height restriction. Approval of the application may set an undesirable precedent.

9.1.5 Comments of Chief Architect/CMD2, Architectural Services Department (CA/CMD2, ArchSD):

- (a) It is noted that the proposed development with 4 nos. of storeys high is about 33.3% higher than adjacent village type developments with 3 nos. of domestic storeys. It is undesirable from visual impact point of view and may not be compatible to adjacent village development. The proposed development with building height substantially higher than adjacent residential developments may set an undesirable case for similar applications.
- (b) For toilet on ground floor and bathroom on first/second/third floor, openable window with natural lighting and ventilation complying B(P)R Section 36 shall be provided.
- (c) For Bedroom 1, Bedroom 2 and Bedroom 3 on First/Second/ Third Floor, external air for openable window complying B(P)R Section 31 shall be provided.

**Nature Conservation**

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

- (a) Although the application site is falls within WBA, it is noted that the Site is paved and disturbed. It is also at certain distance from wetland habitat within the WCA. Given the relatively small scale of the development (a 4-storey structure and 3 car parking spaces within a site of 216.5m<sup>2</sup>), the proposed development does not seem to cause adverse ecological impact.
- (b) According to the TPB guideline No. 12C, an Ecological Impact Assessment (EcoIA) should be submitted for development within WBA requiring planning permission from TPB. The EcoIA should demonstrate that any negative impacts (e.g. surface runoff, noise, etc) on the ecological value of WCA would be adequately mitigated, and that the development will not cause net increase in pollution load to Deep Bay. However, the EcoIA requirement is exempted for some local and minor uses as well as temporary uses.

## **Drainage**

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

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

## **Building Matters**

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

- (a) The permitted maximum plot ratio (P.R.) and site coverage (S.C.) of a site are depended on the proposed building height and the site classification under Building (Planning) Regulation. He noted that the Site is not Class A, B or C site which does not abut a specified street, the development intensity should be determined under Building (Planning) Regulation 19(3) during plan submission stage.
- (b) The Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and emergency vehicular access shall be provided for all the buildings to be erected on the Site in accordance with the requirements under the Building (Planning) Regulation 41D.
- (c) Before any new building works are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (d) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are UBW under the BO and should not be designated for any proposed use under the application.
- (e) For UBW erected on leased land, enforcement action may be taken by the 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.

### **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.
- (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 Building (Planning) Regulation 41D which is administered by the BD.

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

#### 9.1.10 Comments of the DO(YL), HAD:

He has received one objection from the locals on the grounds that the construction works of the proposed development would affect the existing drainage channel and worsen the flooding problem.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM (W)/NTW, CEDD);
- (b) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Commissioner of Police (C of P); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

10.1 On 29.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.7.2018, 10 public comments from members of the public/villagers were received (**Appendix IIa to IIj**), in which 4 support the application mainly on the grounds of increasing housing supply, providing convenience to cater for daily needs and improving their overall living environment; and 6 object to the application on the following grounds:

- (a) illegal land filling; incompatible with the "V" zone;
- (b) not in line with the planning intention of the "V" zone;
- (c) potential impacts (e.g. traffic, flooding, visual, ecological and environmental impacts);
- (d) lack of various impact assessments;
- (e) undesirable precedent for future similar applications; and
- (f) overloading the access road.



## 11. Planning Considerations and Assessment

- 11.1 The Site falls within the “V” zone of Mong Tseng Wai. According to the Notes of the OZP for the “V” zone, “shop and services” is always permitted on the ground floor of a New Territories Exempted House. Based on individual merits of a development or redevelopment proposal, minor relaxation of the building height restriction may be considered by the Board on application under section 16 of the Town Planning Ordinance. The proposed flat with shop and services is a Column 2 use and the application for minor relaxation of the building height restriction, which requires planning permission from the Board.
- 11.2 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 the Government projects. Since land within this zone is primarily intended for development of Small Houses by indigenous villagers, there are no strong justifications to deviate from the planning intention, as it will reduce the land reserved for small house development in the long term.
- 11.3 DLO/YL indicates that land within “V” zone is primarily reserved for small house development by indigenous villagers under the Small House Policy. Non-small house policy land exchange/modification will not normally be entertained within defined village environs or 'V' zone for recognised N.T. villages. Thus, the proposed development may not be able to be implemented even after obtaining approval from the Board.
- 11.4 The area surrounding the Site is predominantly occupied by village houses of not exceeding 3 storeys (8.23m). While the proposed ground floor for shop and services is compatible with the same use always permitted on the ground floor of a NTEH which is an always permitted use in the “V” zone, the proposed minor relaxation of building height from 3 storeys (8.23m) to 4 storeys (13.16m) will cause an increase in building height by 1 storey (+33.3%) or 4.93m (+59.9%) which are considered not minor in scale. CTP/UD&L, PlanD also indicates that the proposed development at the centre of the "V" zone has a built form that is incompatible with the surrounding development, including the proposed 4.93m (59.9%) increase in building height as compared to a generic NTEH of 8.23m in a “V” zone, together with a much larger building footprint (about 98.8m<sup>2</sup>) compared to the surrounding development. Besides, the proposal lacks design merit to justify the minor relaxation of building height restriction. Also, CA/CMD2, ArchSD indicates that the proposed development is undesirable from visual impact point of view and may not be compatible to adjacent village development. Therefore, there are no planning and design merits in the submission to support the applicant’s request for minor relaxation of building height and approval of the application may set an undesirable precedent.
- 11.5 According to the TPB PG-No. 12C, the Site falls within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the WBA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. Within the WBA, for development which requires planning permission from the Board, an ecological impact assessment would also need to be submitted. Development which may

have negative impacts on the ecological value of the WCA would not be supported by the Board, unless the ecological impact assessment can demonstrate that the negative impacts could be mitigated through positive measures. The assessment study should also demonstrate that the development will not cause net increase in pollution load to Deep Bay. For the proposed development, it is not exempted from the requirement of ecological impact assessment. As such, there is insufficient information in the submission to demonstrate that the development would not have adverse ecological impact on the surrounding area.

- 11.6 As no similar applications have been received in the subject “V” zone, the approval of the application would set an undesirable precedent and encourage similar developments to proliferate in the area. The cumulative effect of approving such similar applications would reduce the land available for small house development by indigenous villagers and have adverse impact on as the infrastructure is yet to be confirmed.
- 11.7 There are 6 adverse public comments objecting to the application mainly on the grounds of not in line with the planning intention in the “V” zone, potential adverse impacts to the areas, lack of various impact assessments and the undesirable precedent effect of approving the application. The planning assessment and considerations in paragraph 11.1 to 17.6 above are relevant.

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

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned 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 “V” zone which is to designate both existing recognized and other villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers;
  - (b) there are no planning and design merits in the submission to support the request for minor relaxation of building height from 3 storeys (8.23m) to 4 storeys (13.16m);
  - (c) there is insufficient information in the submission to demonstrate that the development would not have adverse ecological impact on the surrounding areas and not in line with the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C); and
  - (d) approval of the application would set an undesirable precedent for similar residential developments to proliferate in the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 17.8.2022, 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 an ecological impact assessment to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (b) the submission and implementation of fire service installations proposal to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (c) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

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

**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 reasons for rejection should be given to the applicants.

**14. Attachments**

<b>Appendix I</b>	Application form dated 19.6.2018
<b>Appendix IIa to IIj</b>	Public comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Lot Index Plan
<b>Drawings A-2 to A3</b>	Floor Plans
<b>Drawings A-4 to A6</b>	Elevation Plans
<b>Drawing A-7</b>	Section Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan

<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2018**