

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/611

- Applicant** : Ms. Tang Kit Ching
- Site** : Lots 293 S.A ss.1 (Part), 293 S.A ss.2 (Part), 293 S.B ss.1 (Part) and 293 S.B ss.2 (Part) in D.D. 122, Ping Shan, Yuen Long, New Territories
- Site Area** : About 340 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Temporary Storage Use for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary storage use for a period of 3 years at the application site (the Site) (**Plan A-1**). While the proposed use is neither a Column 1 nor Column 2 use in the “V” zone, the covering Notes of the OZP stipulate that temporary use or development of any land or building not exceeding a period of 3 years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is used for the applied use without valid planning permission.
- 1.2 The Site is not involved in any previous planning application. According to the applicant, the Site comprises two portions with five single-storey container structures, with a total floor area of about 74.322m², for storage of miscellaneous items such as farming tools, religious articles and old furniture (**Drawing A-1 and Plans 1, 4a and 4b**). The Site is accessible via a local track leading to Ping Shan Nam Pak Road to its north (**Plan A-2**). The frequency of moving in and out of the items is minimal, which is a few times in a year, and light goods vehicle will be used. The layout plan proposed by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 9.7.2020 with **(Appendix I)** replacement page and supplementary information
 - (b) Further Information (FI) received on 27.7.2020 to **(Appendix Ia)** respond departmental comment
 - (c) FI received on 22.10.2020 to respond departmental **(Appendix Ib)** comment
[(b) and (c) exempted from publication and recounting requirement]
- 1.4 On 4.9.2020, the Committee agreed to defer a decision on the application for a period of two months, as requested by the applicant. On 22.10.2020, FI **(Appendix Ib)** was received and the application is submitted to the Committee for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix I**. They can be summarised as follows:

the Site belongs to the applicant's family and they would like to make use of the Site for storage of farming tools, Taoism religious items and old furniture. The applicant has no intention to use the Site as container storage yard or warehouse. Container structures are used to protect the items from rain and sun.

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

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is subject to planning enforcement action against unauthorised development (UD) involving storage use. Enforcement Notice (EN) No. E/YL-PS/714 was issued on 25.5.2020 requiring discontinuation of UD by 25.8.2020 (**Plan A-2**). A recent site inspection revealed that UD was not discontinued. Prosecution action may be taken by the Planning Authority.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application within the same "V" zone.

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

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission (**Plan A-2**); and
- (b) accessible via a local track leading to Ping Shan Nam Pak Road to its north. (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) the immediate surrounding are mainly vacant land, graves and slopes covered by vegetation;
- (b) to the west are residential and storage and open storage of recyclable materials, which may be UDs, and Ping Shan Nam Pak Road;
- (c) to the further north are cultivated agricultural land and residential dwellings; and
- (d) to the further south are residential dwellings of Hang Tau Tsuen and open storage and parking of vehicles which may be UDs.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised 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 needs 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 on the application and the public comments 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 Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected

without prior approval of the Government.

- (b) There is no Small House application approved or under processing at the Site.
- (c) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. 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 rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Ping Shan Nam Pak Road and the local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of Ping Shan Nam Pak Road and the local track for using them as the vehicular access to the Site.

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

It is noted that no vehicular access is proposed or to be granted under the subject application. He has no comment from highways maintenance point of view. If the application is approved, it is recommended to highlight in the reply to the applicant that the application is approved on the understanding that there is and will be no vehicular access to/from the Site.

Environment

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

- (a) Should the application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" ("COP").

- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.

Landscape

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

According to the aerial photo of 2019, the Site is mainly covered with grassland/shrubland with some containers placed on the Site. The Site is located in an area of rural fringe landscape predominated by village houses and tree groups with some open storage yards and temporary structures in the proximity. The proposed development is considered not entirely compatible with the landscape character of the surrounding area. Significant adverse landscape impact arising from the proposed development is not envisaged. Hence, he has no objection to the application from landscape planning perspective.

Drainage

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

He has no objection in principle to the application from a drainage point of view. Should the Board consider that the application is acceptable from the 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 his Division.

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 applicant should note his detailed comments at **Appendix III**.

Building Matters

- 9.1.8 Comments of the Chief Building Surveyor/New Territories West,

Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on the suitability for the use proposed in the application.
- (b) The applicant should note his detailed comments at **Appendix III**.

District Officer's Comments

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

His office has not received any feedback from locals.

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

- (a) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Project Manager (West) (PM(W)), CEDD.

10. Public Comment Received During the Statutory Publication Period

On 17.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received (**Appendices II-1 and II-2**). The commenters object the application mainly on grounds that the proposed development would have adverse environmental and traffic impacts and incompatible with the surrounding areas.

11. Planning Considerations and Assessments

11.1 The application is for temporary storage use for a period of 3 years at the Site zoned "V" which is primarily intended for development of Small Houses by indigenous villagers. The applied use is not in line with the planning intention of the "V" zone. Though there is no Small House application approved or under processing at the Site, the applied use for storage of the applicant's own items is not serving the needs of the villages or in support of the village development. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

11.2 The Site is located at the fringe of the "V" zone and close to a "GB" zone which is covered by vegetation (**Plans A-2 and A-3**). The applied use comprises 5 single-storey container structures is considered not entirely

compatible with the surrounding rural settlements and the adjoining “GB” zone.

- 11.3 The Site is not involved in any previous applications, and there has not been any similar application approved for temporary storage use in the same “V” zone. Although there are storage uses/brownfield operations in the vicinity of the Site, they are mostly suspected UDs subject to investigation/enforcement action taken by the Planning Authority. Approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone, causing degradation to the environment of the area.
- 11.4 Relevant government departments including C for T, DEP, CE/MN of DSD and D of FS have no objection to or adverse comment on the application.
- 11.5 There are two public comments objecting to the application received on the grounds as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 above and having taking into account the public comments in paragraph 10 above, the Planning Department does not support the application for the following reasons:
- (a) the applied use is not in line with the planning intention of the “V” zone which is primarily intended for development of Small Houses by indigenous villagers. No strong justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such similar applications would result in general degradation of the environment of the area.
- 12.2 Alternatively, 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 **18.12.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the provision of boundary fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **18.6.2021**;
- (b) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **18.6.2021**;

- (c) in relation to (b) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **18.9.2021**;
- (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 **18.6.2021**;
- (e) in relation to (d) above, the implementation of the drainage proposal within **9** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **18.9.2021**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) if the above planning condition (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
- (h) if any of the above planning conditions (a), (b), (c), (d) or (e) 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 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I	Application form received on 9.7.2020 with replacement page and supplementary information
Appendix Ia	FI received on 27.7.2020
Appendix Ib	FI received on 22.10.2020
Appendices II-1 and II-2	Public Comments

Appendix III	Advisory clauses
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**