

RNTPC Paper No. A/YL-TT/427
For Consideration by
the Rural and New Town
Planning Committee
on 18.5.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/427

- Applicant** : Mr. LUNG Man Kwong
- Site** : Lots 3314 S.A and 3314 RP in D.D. 120, Sham Chung Tsuen, Yuen Long, New Territories
- Site Area** : 680 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
- Zoning** : “Village Type Development” (“V”)
[maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary “Private Swimming Pool” for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary “private swimming pool” use at the application site (the Site) for a further period of 3 years (**Plan A-1**). The Site is currently occupied by two New Territories Exempted Houses (NTEHs) with the applied private swimming pool use covered by a valid planning permission under application No. A/YL-TYST/351 (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of 7 previous applications (No. A/YL-TT/138, 147, 188, 233, 291, 337 and 351) for the same applied use or minor amendments to an approved scheme for the same applied use which were approved by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) or by the then District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL) under the delegated authority of the Board. The last application (No. A/YL-TT/351) was approved with conditions by the the Committee for a period of 3 years on 17.7.2015 with validity up to 17.7.2018. Details of the previous applications are at paragraph 6 below and **Appendix III**. Compared with the last application (No. A/YL-TT/351), the current application is submitted by the same applicant for the same applied use with the same site area and layout for the same applied period of permission (i.e. 3 years).

1.3 The layout plan for the swimming pool as submitted by the applicant, which is the same as that submitted for the last application (No. A/YL-TT/351), is at **Drawing A-1**. The rectangular-shaped swimming pool with a hot spa occupies a total area of about 151.8m² at the southern portion of the Site. The dimensions of the swimming pool are 23.2m(L) x 5.2m(W) x 1.2m(D) to 2.4m(D). The south-western corner of the site is used as a lawn and a puddle together with an underground filtration plant. The swimming pool is intended to provide a sports and leisure place for the family members of the applicant.

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

- (a) Application Form received on 22.3.2018 (Appendix I)
- (b) Further Information received on 7.5.2018 regarding the drainage facilities (Appendix Ia)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form in **Appendix I**. They can be summarized as follows:

The swimming pool would serve as a sports and leisure facility for the applicant's family members. It would also beautify the living environment.

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

The applicant is one of the "current land owners". In respect of the other "current land owner", the applicant 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 notifying the other "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 34B on "Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development" (TPB PG-No. 34B) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

6.1 The Site is the subject of 7 previous applications (No. A/YL-TT/138, 147, 188, 233,

291, 337 and 351) for temporary private swimming pool use or minor amendments to an approved scheme of the temporary private swimming pool use. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

- 6.2 Application No. A/YL-TT/138 for temporary private swimming pool was approved with conditions for a period of 3 years by the Committee on 22.11.2002 on the consideration that the proposed private swimming pool was for the leisure use of the applicants and their family members; it would not adversely affect the village character of the area as its size and scale was not substantial; and relevant departments' concerns could be addressed by imposing approval conditions. Application No. A/YL-TT/147, which was a minor amendment to the approved scheme under application No. A/YL-TT/138 involving revision to the layout/area of the swimming pool and the addition of a filtration plant room at the south-western corner of the site, was approved with conditions by the then DPO/TMYL under the delegated authority of the Board on 8.8.2003 with validity up to 22.11.2005. However, the planning permission was revoked on 22.2.2004 due to non-compliance with approval conditions on the landscape and drainage aspects.
- 6.3 The subsequent planning application (No. A/YL-TT/188) and the other 3 renewal applications (No. A/YL-TT/233, 291 and 337) for the same applied use were all approved with conditions for a period of 3 years each time by the Committee on 9.12.2005, 24.10.2008, 7.10.2011 and 28.11.2014 respectively on similar considerations as those for the previous applications. However, application No. A/YL-TT/337 was revoked on 9.3.2015 due to non-compliance with approval condition on the drainage aspect.
- 6.4 The last planning application (No. A/YL-TT/351) for the same applied use was approved with conditions on 17.7.2015 on similar considerations as those for the previous applications and the applicant had submitted records of the existing drainage facilities on the Site in the application. The time-limited approval condition has been complied with. Compared with the last application (No. A/YL-TT/351), the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. Similar Application

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

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

8.1 The Site is:

- (a) accessible via a local track connecting to Sham Chung Road to its south; and
- (b) currently occupied by two NTEHs at the northern portion of the Site, and an outdoor swimming pool with a hot spa and a puddle, a lawn and an underground filtration plant room at the southern portion of the Site covered by a valid planning permission under application No. A/YL-TYST/351 (**Plan A-2** and **A-4**).

8.2 The surrounding areas have the following characteristics:

- (a) predominantly rural residential in nature comprising village houses/Small Houses and scattered residential structures with car parks, open storage/storage yards, warehouse, workshop, real estate agencies, cultivated agricultural land and vacant/unused land;
- (b) a residential development namely Silver Garden is located to the immediate north of the Site; and
- (c) the car parks, open storage/storage yards, warehouse, workshop and real estate agencies in the vicinity are suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the 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.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises of Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lots Nos. 3314 S.A and 3314 RP all in D.D. 120 are covered by Short Term Waivers (STWs) Nos. 3179 and 3180 respectively to permit structures erected thereon for the purpose of private swimming pool with associated filtration plant room.
- (c) The Site is accessible to Sham Chung Road via government land (GL) and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.

- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions if there is any irregularities on site. Such application(s) 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(s) will be approved. If such application(s) 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.
- (f) Other than the two existing Small Houses within the Site already covered by building licences, there is no Small House application received nor under processing within the Site and within 30m from the Site.

Traffic

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

- (a) The access arrangement should be commented by the Transport Department (TD).
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Sham Chung Road.

Environment and Hygiene

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

- (a) He noted that the applicant seeks renewal of planning approval for a previously approved swimming pool in “V” zone. In view of the scale and nature of the proposed use, he has no objection to the renewal of temporary swimming pool use. The applicant is reminded to observe the requirements under the Water Pollution Control Ordinance if there is any effluent discharge from the proposed use.
- (b) The applicant is also advised to observe the following requirements in Environmental Protection Department (EPD)’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”:
 - (i) Swimming pool main drain, footbath main drain and swimming pool make-up tank drain should be connected to stormwater

drains while the filtration plant backwash should be discharged to foul sewers.

- (ii) In case of unavailability of public sewer, if septic tank and soakaway system is used for the filtration plant backwash, its design and operation should follow the requirements in the ProPECC PN 5/93, including the percolation test and certification by Authorized Person. Provisions should be made for connections to public foul sewers when such is available in the vicinity.

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

- (a) According to Section 2 of the Swimming Pools Regulation, Cap. 132CA, any swimming pool which serves not more than 20 residential units and to which the public have no access does not require swimming pool licence.
- (b) No Food and Environmental Hygiene Department's facilities will be affected and such activity and operation shall not cause any environmental nuisance and pest infestation to the surrounding.

Drainage

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

- (a) Based on the further information received on 7.5.2018 (**Appendix Ia**), apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TT/351.
- (b) He has no objection in principle to the proposed development.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities and submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Water Supply

10.1.6 Comments of the Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD):

He has no objection to the application subject to the following comments:

Existing water mains as shown on **Plan A-2** will be affected. The developer shall bear the cost of any necessary diversion works affected by the proposed development.

Others

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

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The parties concerned should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

10.1.8 Comments of the Chief Engineer/Cross-boundary Infrastructures and Development, Planning Department (CE/CID, PlanD):

The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the Study). The Site falls within the Study Area but outside the development area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

District Officer’s Comments

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

The local consultation was completed on 24.4.2018 and his office has not received any comments from the village representatives in the vicinity on the application.

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

- (a) Commissioner for Transport (C for T);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (d) Project Manager (West), CEDD (PM(W), CEDD);
- (e) Director of Fire Services (D of FS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 3.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 24.4.2018, one public comment from a private individual (**Appendix IV**) was received raising concern that the application may prohibit the construction of NTEHs.

12. Planning Considerations and Assessments

- 12.1 The current renewal application is for temporary private swimming pool at the Site zoned “V” on the OZP for a period of 3 years. The planning intention of the “V” zone 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 and to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Although the private swimming pool use is not in line with the planning intention of the “V” zone, DLO/YL of LandsD advises that there is no Small House development proposal pertaining to the Site currently. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the area.
- 12.2 The private swimming pool together with the ancillary facilities are erected at the open-air area to the south of 2 existing NTEHs and serve the family of the applicant. The development is considered not incompatible with the surrounding land uses which are predominantly occupied by village type residential development.
- 12.3 The application is generally in line with TPB PG-No. 34B in that there has been no material change in planning circumstances since the granting of the previous approval under Application No. A/YL-TT/351; the approval conditions have been complied with; and the 3-year approval period sought is of the same timeframe as the previous approval.
- 12.4 Government departments, including C for T, DEP, DFEH, CE/MN of DSD and CE/Dev(2) of WSD have no adverse comment on the application. The swimming pool use is unlikely to cause significant adverse environmental, landscape, traffic and drainage impacts on the surrounding areas. Relevant approval conditions are recommended in paragraphs 13.2(a) to (c) below to address the technical requirement of the concerned government departments. Any non-compliance with the approval condition will result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the requirements of the relevant ProPECC issued by EPD and the requirements of the Water Pollution Control Ordinance.
- 12.5 The Site is the subject of 7 previous approvals for the same applied use. Approval of the subject application is in line with the Committee’s previous decisions.
- 12.6 There is a public comment received on the application during the statutory publication period (**Appendix IV**) raising concern that the application may prohibit the construction of NTEHs. DLO/YL of LandsD advises that there is no Small House application received nor under processing within the Site and within 30m

from the Site.

13. Planning Department's View

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment as mentioned in paragraph 11 above, the Planning Department considers that the temporary private swimming pool could be tolerated for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a further period of 3 years from 18.7.2018 to 17.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.10.2018;
- (d) if any of the above planning conditions (a) or (b) 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
- (e) if the above planning condition (c) 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.

[Approval conditions (a) to (e) are the same as those under the permission for Application No. A/YL-TT/351.]

Advisory clauses

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

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

the continuous occupation of the Site for the applied use is not in line with the planning intention of the "V" zone which is intended to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning permission.
- 14.2 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 22.3.2018
Appendix Ia	Further Information received on 7.5.2018 regarding the drainage facilities
Appendix II	Relevant extracts of Town Planning Board Guidelines No. 34B on “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34B)
Appendix III	Previous Applications covering the Application Site
Appendix IV	Public comment received during the statutory publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2018**