

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

**APPLICATION NO. A/YL/246**

- Applicant** : Mr TANG Chi Hok represented by Metro Planning and Development Company Limited
- Site** : Lot 2497 RP (Part) in D.D. 120, Shap Pat Heung Road, Yuen Long, New Territories
- Site Area** : 630m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Yuen Long Outline Zoning Plan No. S/YL/23 (the OZP)
- Zoning** : “Residential (Group B)” (“R(B)”) [restricted to a maximum plot ratio of 3.5, a maximum site coverage of 50% and a maximum building height of 25 storeys (excluding basement car park)]
- Application** : Proposed Temporary Shop and Services (Real Estate Agency and Convenient Store) for a Period of 6 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (real estate agency and convenient store) for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for “R(B)” zone, ‘Shop and Services’ is a Column 2 use that requires planning permission from the Town Planning Board (the Board). For temporary uses of any land or building expected to be over 5 years, the uses must conform to the zoned use or these Notes. As such, the proposed temporary use for a period of 6 years requires planning permission from the Board. The Site is currently vacant and is not involved in any previous application (**Plans A-1 to A-4**).
- 1.2 According to the applicant, the proposed development comprises three temporary structures for accommodating a convenient store, a real estate agency and a toilet respectively with a total gross floor area of about 243m<sup>2</sup>, plot ratio of 0.39, site coverage of 38.6% and building height not exceeding 4m. The operation hours are between 9:00 a.m. and 9:00 p.m. daily. A proposed

layout plan, a proposed landscape plan and a proposed drainage plan submitted by the applicant are shown in **Drawings A-1 to A-3** respectively.

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

- (a) Application form with attachments received on 11.5.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information received on 22.6.2018 clarifying the loading/unloading arrangement of the proposed development **(Appendix Ib)**

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

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia** and Further Information at **Appendix Ib**. They can be summarised as follows:

- (a) The proposed location of the development is surrounded by 3 schools to the southwest, a high density residential development (namely Emerald Green) to the west and some temporary uses to the north, which is ideal for attracting businesses. In particular, the residents of Emerald Green and school students are the target customers of the proposed development.
- (b) The Site falls within the “R(B)” zone on the approved Yuen Long OZP, where ‘Shop and Services’ is a Column 2 use. The proposed development is temporary in nature and would not jeopardize the long term planning intention of the “R(B)” zone.
- (c) The Board has approved similar applications for ‘shop and services’ uses within “R(B)” zones in Yuen Long district, including Applications No. A/YL-TYST/772, 799, 820, 859 and 878; A/YL-PS/490; and A/YL-KTN/526.
- (d) The scale, nature, layout and form of the proposed development are compatible with the surrounding environment. For visual enhancement, the applicant will provide 4 trees at uncovered area within the Site.
- (e) The proposed development is not accessible by vehicle and would not generate significant traffic. The applicant will make use of the dead end of Fung Yu Road for temporary loading/unloading of daily goods to the proposed development.
- (f) In accordance to the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”, the applicant will pave the surface of the Site and its frontage with concrete and no operation will be held between 9:00 p.m. and 9:00 a.m. so as to enhance the compatibility of the proposed development with the surroundings.

**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. 31) by sending a registered mail to the Shap Pat Heung Rural Committee and posting a notice outside the Site. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Previous Application**

The Site is not subject to any previous application.

**5. Similar Application**

There is no similar application within the same “R(B)” zone on the OZP.

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

6.1 The Site is:

- (a) located at the junction of Fung Yu Road and Shap Pat Heung Road;
- (b) accessible by pedestrian from Fung Yu Road through a ramp at its northeast; and
- (c) vacant and densely covered with shrubs and some trees.

6.2 The surrounding areas have the following characteristics:

- (a) generally residential use in nature intermixed with car services, vehicle parks, storages/open storages, schools, vacant structures and unused land;
- (b) to its north and northeast across Fung Yu Road is a residential development namely Emerald Green and to its further north is another residential development namely Greenery Place;
- (c) to northeast is a structure for car services, a car park and some temporary structures occupied by residential and storage uses;
- (d) to its east is a vacant structure and some unused land and to its further west is the Drainage Services Department Ma Tin Sewage Pumping Station;
- (e) to its southeast and south across Shap Pat Heung Road are land/structures occupied by car services, parking of vehicles/trailers,

open storages and residential use; and

- (f) to its southwest is a refuse collection point and three schools.

## 7. **Planning Intention**

The “R(B)” zone is intended primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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

- 8.1 The following government departments have been consulted and their views on the application and/or the public comments received are summarised as follows:

### **Land Administration**

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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) The Site is accessible to Fung Yu Road via Government Land (GL). Her office does not provide maintenance works for GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by her department acting in the capacity as 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 required by her department.

### **Traffic**

- 8.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the loading/unloading arrangement for the daily operation of the proposed shop and services as mentioned in the applicant's further information (**Appendix Ib**).
- (b) He has no further comment on the application and the public comments concerning traffic issues (**Appendices III-5 to III-9**) from traffic engineering viewpoint.

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

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

**Environment**

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

- (a) With respect to the public concern on the potential odour nuisance caused by the proposed toilet (**Appendices III-5, III-6 and III-7**), the applicant is reminded to properly design and maintain the proposed toilet and provide effective odour control device to minimize odour nuisance to the surroundings.
- (b) In addition, the applicant is advised to follow the relevant mitigation measures and requirements in the "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisance.

**Landscape**

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

- (a) The Site, which is located to the north of Shap Pat Heung Road lies in an area of "R(B)" zone. The Site is not subject to any previous planning application. The current application seeks planning permission for temporary shop and services use for a period of 6 years.
- (b) With reference to the aerial photo taken on 13.3.2018, the Site is vegetated with shrubs and some trees. The Site is situated in an area of urban fringe landscape character. In consideration that trees would be planted along the public frontage, significant change to the landscape character arising from the application is

not anticipated. Hence she has no objection to the application from the landscape planning perspective.

- (c) Should the Board approve the application, in view of the above, she would recommend an approval condition requiring the submission and implementation of a tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Board to be included in the planning permission.
- (d) Detailed comments are at **Appendix II**.

### **Drainage**

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

- (a) He has the following comments on the submitted drainage proposal (**Drawing A-3**):
  - (i) The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development.
  - (ii) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
  - (iii) The detailed comments are at **Appendix II**.
- (b) Despite the above, he has no objection in principle to the development from the public drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal, implementation of the drainage proposal and maintenance of the implemented drainage facilities to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

### **Fire Safety**

8.1.7 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. 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 the proposed FSIs should be clearly marked on the layout plans.
- (c) In addition, 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.

### **Building Matters**

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

The applicant's attention is drawn to the following points:

- (i) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on application site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (ii) 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 application site under the BO.
- (iii) 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) Regulations respectively.
- (iv) 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 Building (Planning) Regulation at the building plan submission stage.

### **Others**

#### 8.1.9 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. They 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.

#### **District Officer’s Comments**

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

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

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (d) Project Manager (West), CEDD (PM(W), CEDD); and
- (e) Commissioner of Police (C of P).

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

9.1 On 18.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.6.2018, a total of nine public comments were received.

9.2 One commenter expressed his views on the application (**Appendix III-1**). Another commenter suggested extending the proposed elevated pedestrian corridor in Yuen Long Town to Shap Pat Heung Road (**Appendix III-2**).



- 9.3 The other commenters object to the application on grounds of: (i) not suitable to have more real estate agency/shop and services in the locality (**Appendices III-3, III-4, III-5 and III-8**); (ii) security issues (**Appendices III-4 and III-8**); (iii) odour nuisance from the proposed toilet (**Appendices III-5 to III-7**); (iv); light pollution (**Appendix III-8**); (v) attracting car washing activities in the vicinity (**Appendices III-5 and III-6**); (vi) traffic congestion (**Appendices III-5 to III-9**); (vii) threatening pedestrian safety (**Appendix III-9**); and (viii) impact to the natural environment (**Appendix III-7**).

## **10. Planning Considerations and Assessments**

- 10.1 The subject application is for proposed temporary shop and services (real estate agency and convenient store) on a Site zoned “R(B)” on the OZP. The planning intention of the “R(B)” zone is primarily for medium-density residential development. Although the proposed use is not entirely in line with the planning intention of the “R(B)” zone, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(B)” zone.
- 10.2 The proposed development comprises 3 single-storey structures with a total floor area of about 243m<sup>2</sup>. It is considered that the proposed use and the development scale is not incompatible with the surrounding uses which are predominantly residential uses intermixed with car services, vehicle parks, storages/open storages, schools, vacant structures and unused land (**Plan A-2**).
- 10.3 Relevant government departments consulted, including C for T, DEP, CTP/UD&L, PlanD, CE/MN, DSD and D of FS, have no objection to or adverse comment on the application. No adverse impacts on traffic, environmental, landscape, drainage and fire safety from the applied development is expected. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 11.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 10.4 There are nine public comments received during the statutory publication period as summarised in paragraph 9. As regards the suggestion to extend the proposed elevated pedestrian corridor in Yuen Long Town, it is not related to the subject application. As for the other comments, the planning considerations and assessments in paragraphs 10.1 to 10.3 above are also relevant.

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

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments as mentioned in paragraph 9 above, the Planning

Department considers that the temporary shop and services (real estate agency and convenient store) could be tolerated for a period of 6 years.

- 11.2 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 6 years until 6.7.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of a revised 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 6.1.2019;
- (c) in relation to (b) above, the implementation of the 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 6.4.2019;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a revised tree preservation and 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 6.1.2019;
- (f) in relation to (e) above, the implementation of the tree preservation and landscape proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.4.2019;
- (g) the submission of a 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 6.1.2019;
- (h) in relation to (g) above, the implementation of the 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 6.4.2019;
- (i) if any of the above planning conditions (a) or (d) 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;
- (j) if any of the above planning conditions (b), (c), (e), (f), (g) or (h) 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; and

- (k) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

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

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

the development is not in line with the planning intention of the "R(B)" zone which is primarily intended for medium-density residential development. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

**12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

**13. Attachments**

- Appendix I** Application form with attachments received on 11.5.2018
- Appendix Ia** Supplementary Planning Statement
- Appendix Ib** Further Information received on 22.6.2018 clarifying the loading/unloading arrangement of the proposed development
- Appendix II** Detailed departmental comments
- Appendices III-1 and III-9** Public comments received during statutory publication period
- Appendix IV** Recommended advisory clauses

<b>Drawing A-1</b>	Proposed layout plan
<b>Drawing A-2</b>	Proposed landscape plan
<b>Drawing A-3</b>	Proposed drainage 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-4</b>	Site photos

**PLANNING DEPARTMENT  
JULY 2018**