

RNTPC Paper No. A/YL-KTN/787  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 15.10.2021

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

**APPLICATION NO. A/YL-KTN/787**

**Applicant** : Mr. Mak Chun Kui

**Site** : Lot 3458 RP in D.D. 104, Yuen Long, New Territories

**Site Area** : About 277.1m<sup>2</sup>

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9

**Zoning** : “Comprehensive Development Area” (“CDA”)  
[Maximum plot ratio of 0.4 and building height of 4 storeys]

**Application** : Temporary Office with Ancillary Storage and Car Park for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary office with ancillary storage and car park for a period of 3 years. The Site falls within an area zoned “CDA” on the OZP and the applied use is neither a Column 1 nor Column 2 use in the “CDA” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is hard-paved and currently used for storage and parking of vehicle without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves 4 one-storey converted containers with building height not more than 2.75m and a total floor area of about 50.95m<sup>2</sup> for office and ancillary storage of tools and water-proofing materials. The development will be operated from 8:00a.m. to 7:00p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. 3 private car parking spaces and 2 parking spaces for light goods vehicle will be provided on-site. The Site is accessible to San Tam Road via a local track. The site layout plan submitted 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, plan and supplementary **(Appendix I)** information received on 18.8.2021 and 26.8.2021 respectively
- (b) Further Information (FI) received on 12.10.2021 in **(Appendix Ia)** response to departmental comments  
*[exempted from publication requirement]*

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

The justifications put forth by the applicant in support of the application are detailed in the application form, plan and FI in **Appendices I and Ia**. They can be summarized as follows:

The Site has been used for temporary office, storage of construction material and parking of vehicle use since 1990s. The applicant intends to regularise the development on-site. The Site is conveniently connected to San Tam Road via a local track.

## **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 currently subject to an on-going planning enforcement action (No. E/YL-KTN/588) against an unauthorized development (UD) involving storage use (including deposit of containers) (**Plan A-2**). Enforcement Notice was issued on 31.5.2021 to the concerned parties requiring discontinuation of the UD.

## **5. Previous Application**

The Site is not involved in any previous application.

## **6. Similar Application**

There is no similar application within the “CDA” zone in the vicinity of the Site.

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

7.1 The Site is:

- (a) hard-paved and currently used for storage and parking of vehicle without planning permission; and
- (b) accessible via a local track branching off from San Tam Road.

7.2 The surrounding areas are rural in character intermixed with a carpark, residential structures/ dwellings, plant nurseries, cultivated agricultural land and vacant/ unused land:

- (a) to the north are unused land, a carpark (approved under a valid application No. A/YL-KTN/661), residential structures/dwellings and cultivated agricultural land;
- (b) to the east are plant nursery, cultivated agricultural lands and a pylon;
- (c) to the south are residential dwellings/ structures, plant nursery and unused land; and
- (d) to the immediate west of the Site are San Tam Road, San Tin Highway and Castle Peak Road – Tam Mi.

**8. Planning Intention**

The “CDA” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

**9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application 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 an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that

no structures are allowed to be erected without the prior approval of the Government.

- (b) Should the application be approved, the lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as 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 Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

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

- (a) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

### **Landscape**

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

- (a) He has no objection to the application from the landscape planning perspective given that significant adverse landscape impact arising from the applied use is not anticipated.
- (b) Based on the aerial photo of 2021, the Site is situated in an area of disturbed rural landscape character comprising of temporary structures and car parks, Small Houses, farmland and scattered tree groups. Considering that adjacent sites for temporary private car park (i.e. No. A/YL-KTN/492 and 661) have been approved within the same “CDA” and similar use could be found in proximity, the applied use is considered not incompatible with the surrounding landscape character.
- (c) With reference to site inspection photos taken on 6.9.2021, the Site is hard paved and some temporary structures were erected. One common fruit tree was observed at the southeast corner within the Site. Referring to the proposed layout, the existing tree will not be affected due to the applied use.
- (d) The applicant is reminded that approval of the planning application under Town Planning Ordinance does not imply approval of tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/ government department(s) direct to obtain the necessary approval on tree works.

### **Nature Conservation**

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

As the Site falls within the “CDA” zone and has been paved, he has no comment on the application from nature conservation perspective.

### **Drainage**

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

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

### **Fire Safety**

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

- (a) He has no in-principle objection to the application 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 fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be

taken by the BD to effect their removal in accordance with the prevailing 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.

- (c) His detailed comments on access, provision of access, temporary or licensed structures are at **Appendix III**.

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

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

He has not received any locals' comment on the application and has no comment from departmental point of view.

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

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Commissioner of Police.

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

On 7.8.2021, the application was published for public inspection. During the 3-week statutory publication period, five public comments were received from the San Tin Rural Committee, Village Representative of Pok Wai and three individuals objecting to the application mainly on the grounds that the applied use will induce adverse traffic impact, environmental pollution and fire and slope safety concerns affecting the safety and living quality of the villagers; and the Site is subject to enforcement action and the current application is to regularize illegal use (**Appendices II-1 to II-5**).

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

11.1 The application is for temporary office with ancillary storage and car park for a period of 3 years at the "CDA" zone. The planning intention of the "CDA" zone is primarily for comprehensive development/ redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. Although the applied use is piecemeal and not entirely in line with the planning intention of the "CDA" zone, there is no known long-term development at the subject "CDA" zone. Approval of the application on a

temporary basis of 3 years would not jeopardize the planning intention of the “CDA” zone.

- 11.2 The applied use is considered not incompatible with the surrounding rural land uses in the area which comprise mainly residential structures/ dwellings, a carpark, plant nurseries, cultivated agricultural land and vacant/ unused land.
- 11.3 Relevant government departments consulted including C for T, CE/MN of DSD, D of FS and DEP have no adverse comment on the application. To minimize the possible environmental nuisance, approval conditions restricting the operation hours and vehicles type are proposed in paragraphs 12.2 (a) to (c) below. The applicant will also be advised to adopt the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Other technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (i) in paragraph 12.2 below.
- 11.4 The Site is not the subject of any previous application. There is also no similar application for the same applied use within the same “CDA” zone in the vicinity of the Site.
- 11.5 Five public comments objecting to the application were received during the statutory publication period as detailed in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

## **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 above, the Planning Department considers that the temporary office with ancillary storage and car park could be tolerated 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 15.10.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference.

### **Approval Conditions**

- (a) no operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;



- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) 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 15.4.2022;
- (f) in relation to (e) 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 15.7.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 15.4.2022;
- (i) in relation to (h) above, the implementation of a 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 15.7.2022;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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
- (k) if any of the above planning condition (e), (f), (h) or (i) 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**.

- 12.3 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 "CDA" zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting

facilities, if any. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

**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 and Supplementary Information received on 18.8.2021 and 26.8.2021 respectively
<b>Appendix Ia</b>	FI received on 12.10.2021
<b>Appendices II-1 to II-5</b>	Public Comments received during the Statutory Publication Period
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Layout 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  
OCTOBER 2021**