

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

**APPLICATION NO. A/YL-KTN/832**

<b><u>Applicant</u></b>	: Sun Fung Garden Limited represented by Land Supreme Surveyors Limited
<b><u>Site</u></b>	: Various Lots in D.D. 104, Long Ha, Kam Tin North, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 7,097.78m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Comprehensive Development Area” (“CDA”) [Maximum plot ratio of 0.4 and building height of 4 storeys]
<b><u>Application</u></b>	: Proposed Temporary Shop and Services (Landscaping and Gardening Shop and Services) with Ancillary Storage of Machinery and Materials for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (landscaping and gardening shop and services) with ancillary storage of machinery and materials for a period of 3 years. The Site falls within the “CDA” zone on the Kam Tin North OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use in “CDA” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently partly vacant and partly used for open storage/storage of machinery, containers and plant tools without planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is separated into three pieces of land parcels. According to the applicant, the proposed use involves 6 one-storey structures with building height not more than 4.5m and a total floor area of about 1,055.8m<sup>2</sup> for shop and services for landscaping and gardening, ancillary storage of machinery and materials. Five private car parking spaces and one loading/unloading space for light goods vehicle will be provided on-site. The operation hours are from 8:00 a.m. to 6:00 p.m. daily, including public holidays. The Site is accessible from San Tam Road via a local access. 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 received on 19.4.2022 **(Appendix I)**
- (b) Further Information (FI) received on 10.8.2022 **(Appendix Ia)**
- (c) FIs received on 17.8.2022, 23.8.2022 and 8.9.2022 **(Appendices Ib, Ic and Id)**

1.4 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 10.6.2022. At the request of the applicant, the Committee agreed to defer making a decision on the application for two months to allow time for the preparation of FI to address the departmental comments. After the deferral, the applicant submitted FI in August 2022 in response to the departmental comments. The application is scheduled for consideration by the Committee at this meeting.

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

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FIs in **Appendices I to Id**. They can be summarized as follows:

- (a) The proposed use is temporary in nature which will not frustrate the long-term planning intention of the Site nor affect the future implementation of the “CDA” development in the area.
- (b) The Site will be used as a typical retail shop involving in business of soft landscape feature such as seedlings of trees, shrubs, flowers and gardening products etc. with ancillary storage of machineries for gardening/landscaping. The shop at the Site will also be used to demonstrate the usage of landscape / gardening products.
- (c) The proposed development will not create any adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. The scale and intensity of the proposed structures are compatible with the surrounding environment.
- (d) In response to the comments of the Railway Development Office of the Highways Department that the Site may have interfacing issue with the proposed Northern Link (NOL) project, the applicant states that he will stop the operation and vacate the Site when it is required for the NOL development in future (**Appendix Id**).
- (e) In response to the comments of the Chief Town Planner/ Urban Design and Landscape on the application, the applicant states that he would import trees with root balls of various species from the Mainland for sale from time to time, the existing trees near the Erection 4 are temporarily housed at the Site which will be removed and sold to

once there is demand from the customers (**Appendix Ic**).

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

The applicant is not a “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting a site notice and sending notice to Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is currently not subject to any active planning enforcement action.

**5. Previous Application**

The Site is not involved in any previous application.

**6. Similar Application**

6.1 There is a similar application (Application No. A/YL-KTN/788) for proposed temporary retail shop and wholesale trade use within the same “CDA” zone in the vicinity of the Site on the Kam Tin North OZP which was approved with conditions by the Committee on 6.5.2022 mainly on the grounds that temporary approval would not frustrate the long-term planning intention of the “CDA” zone; the development was not incompatible with the surrounding land uses; relevant government departments generally had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions.

6.2 Details of the application are summarized in **Appendix II** and the location is shown on **Plan A-1**.

**7. The Site and Its Surrounding Area (Plans A-2 to A-4b)**

7.1 The Site is:

- (a) partly vacant and partly used for open storage/ storage of machinery, containers and plant tools without planning permission; and
- (b) accessible from San Tam Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and further northwest are vacant land, fallow agricultural land, grassland, woodland, parking of vehicles and a storage yard. There is an area zoned “Other Specified Uses” annotated “Railway Reserve” to the northwest which is intended for development of the proposed NOL, the exact alignment of which has yet to be reviewed and finalized (**Plans A-1 and A-2**);
- (b) to its west and east are woodland in the “Conservation Area” (“CA”) zone. A stream course is running in a south-north direction to the east of the Site (**Plan A-2**); and
- (c) to its immediate south are open storage/ storage yards and woodland in the “CA” zone.

## **8. Planning Intention**

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. 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 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.
- 9.2 The following government department does not support / has reservation on the application.

### **Railway Development**

Comments of the Chief Estate Surveyor/Railway Development, LandsD(CES/RD, LandsD):

- the Site may be affected by the proposed NOL project and the construction of the NOL may commence in 2025. His office has reservation on the application from the land acquisition point of view.

## **10. Public Comment Received During Statutory Publication Period (Appendix V)**

The application was published for public inspection. During the three-week statutory publication period, one public comment from an individual was received objecting to the application mainly on the grounds that the nature of the application is akin to an open storage and brownfield use which should not be approved by the Board.

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

- 11.1 The application is for proposed temporary shop and services (landscaping and gardening shop and services) with ancillary storage of machinery and materials for a period of 3 years at the “CDA” zone. The proposed use 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. The CES/RD of LandsD has some reservation on the application from the land acquisition perspective as the Site may be affected by the proposed NOL project of which its construction is tentatively scheduled for commencement in 2025. Nevertheless, the CES/RD 2-2, RDO of HyD has no comment on the application noting that the applicant undertakes to vacate the Site in the event that the Site is needed for the future railway development. Should the application be approved, an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the NOL implementation is recommended.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses which are rural in character intermixed with fallow farmland, open storage / storage yards, parking of vehicles, grassland, vacant land and woodland.
- 11.3 Taking into account the nature and scale of the proposed development, it will unlikely result in significant adverse traffic, environmental and drainage impacts to the surrounding areas. Other relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2. below. Should the application be approved, the applicant will also be advised to adopt the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts to the surrounding areas.
- 11.4 There is a similar application (No. A/YL-KTN/788) for temporary shop and services use within the same “CDA” zone in the vicinity of the Site approved by the Committee in May 2022 for the reasons as stated in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decision on similar application.
- 11.5 One public comment was received during the statutory publication period raising objection to the application as set out in paragraph 10 above. In this regard, the departmental comments as well as the planning assessments and considerations 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 comment mentioned in paragraph 10 above, the Planning Department considered that the proposed use 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 23.9.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 23.3.2023;
- (b) in relation to (a) 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 23.6.2023;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 23.3.2023;
- (e) in relation to (d) 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 23.6.2023;
- (f) if the above planning condition (c) 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
- (g) if any of the above planning condition (a), (b), (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 IV**.

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

the proposed 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. 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. No strong planning justification has been given in the submission for a departure from the planning intentions, 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 with plans received on 22.4.2021
<b>Appendices Ia to Id</b>	FI received on 10.8.2022, 17.8.2022, 23.8.2022 and 8.9.2022
<b>Appendix II</b>	Similar application within the same “CDA” zone in the vicinity of the Site
<b>Appendix III</b>	General departmental comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comment
<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  
SEPTEMBER 2022**