

RNTPC Paper No. A/YL-KTS/884  
For Consideration by  
the Rural and New Town Planning  
Committee on 30.4.2021

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

**APPLICATION NO. A/YL-KTS/884**

|                           |  |
|---------------------------|--|
| <b><u>Applicant</u></b>   | : Mr. Tang Ka Fai represented by Metro Planning & Development Company Limited        |
| <b><u>Site</u></b>        | : Lot 291 (Part) in D.D. 109, Kam Sheung Road, Kam Tin, Yuen Long                    |
| <b><u>Site Area</u></b>   | : About 640m <sup>2</sup>  |
| <b><u>Lease</u></b>       | : Block Government Lease (demised for agricultural use)                              |
| <b><u>Plan</u></b>        | : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15                   |
| <b><u>Zoning</u></b>      | : “Village Type Development” (“V”)<br>[maximum building height of 3 storeys (8.23m)] |
| <b><u>Application</u></b> | : Proposed Temporary Shop and Services (Real Estate Agency) 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 (real estate agency) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 The Site is subject to two previous applications. One was for temporary open storage of private cars for sale and display which was rejected by the Rural and New Town Planning Committee (the Committee) in 2010. The other one was for temporary open public car park which was approved by the Board for 3 years on review in 2011, but the planning permission was revoked in 2011 due to non-compliance with approval condition.

- 1.3 According to the applicant, the proposed development involves three single-storey structures with building height of 3m to 4.5m and total floor area of about 205m<sup>2</sup> for shop and services (real estate agency), conference room, toilet and electricity meter room. Four private car parking spaces will be provided in the Site. The operation hours will be between 9:00 a.m. and 7:00 p.m. daily, including public holidays. The Site is accessible from Kam Sheung Road. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with supplementary statement (**Appendix I**) received on 2.3.2021
  - (b) Further Information (FI) received on 19.4.2021 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 and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed development will cater for the demand for real estate agency service of the nearby residents. The proposed development is not incompatible with the surrounding environment. It will not jeopardize the long-term planning intention of the “V” zone.
- (b) The proposed development has insignificant traffic, environmental, noise and drainage impacts. Similar shop and services in “V” zone were granted with planning permission. Similar preferential treatment should be given to the current application. The applicant will comply with the approval condition should the application be approved.

## 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. 31A) by posting notice at the Site and sending notice to Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

#### 4. **Background**

The Site is currently not the subject of any active planning enforcement case.

#### 5. **Previous Applications**

- 5.1 The Site is subject to two previous applications submitted by different applicants submitted by different applicants. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-KTS/490 for temporary open storage of private cars for sale and display was rejected by the Committee in 2010 on the grounds that the development was not in line with the planning intention of the “V” zone; the development did not comply with the Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” in that there was no previous planning approval granted for the site and there were adverse departmental comments and local objections against the development; the applicant failed to demonstrate in the submission that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications.
- 5.3 Application No. A/YL-KTS/508 for temporary open public car park (private car, light goods vehicle and medium goods vehicle) was approved with conditions by the Board on review in 2011 for a period of 3 years on the consideration that there was no Small House application at the site; approval condition could be imposed to prohibit medium goods vehicles; departmental concerns could be addressed by appropriate approval conditions; and similar application in the vicinity had been approved. However, the planning permission was revoked on 16.8.2011 due to non-compliance with approval condition.

#### 6. **Similar Applications**

- 6.1 There are nine similar applications for temporary shop and services use (real estate agency or martial art goods retail store) within the same and adjoining “V” zones on the OZP. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1a**.
- 6.2 All the applications were approved with conditions by the Committee for a period of 3 years between 2010 and January 2021 mainly for the reasons that approval of the application on a temporary basis would not jeopardize the long-

term planning intention of the “V” zone; the development was not incompatible with the surrounding land uses; it could provide service to serve some of the needs of the local residents; and relevant departments had no adverse comment. However, the planning permissions of applications No. A/YL-KTS/648 and 782 were revoked due to non-compliance with planning conditions.

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

### **7.1 The Site is:**

- (a) currently vacant; and
- (b) accessible via Kam Sheung Road.

### **7.2 The surrounding areas are rural in character intermixed with low-rise residential developments, a church, shop and services, parking of vehicles and storage yards:**

- (a) to its east and south across Kam Sheung Road are low-rise residential developments and a church;
- (b) to its north are parking of vehicles, storage yards and vacant land; and
- (c) to its west across a footpath is a real estate agency with valid planning permission. To its further west and northwest are low-rise residential developments.

## **8. Planning Intention**

The planning intention of the “V” is to reflect existing recognized 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 ground floor of a New Territories Exempted House (NTEH). 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 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 contain the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed 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 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 rent or fee, as may be imposed by the LandsD.
- (c) There is no Small House application approved or currently under processing at the Site.

- 9.1.2 Comments of the Chief Estate Surveyor/ Railway Development, Lands Department (CES/Railway Development, LandsD):

Provided that the Railway Development Office of Highways Department has no objection against the application, he has no strong view against the application.

### **Traffic**

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

- (a) He has no comment on the application from the traffic engineering perspective.

- (b) Should the application be approved, the 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 Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.4 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

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

9.1.5 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

- (a) The Site falls within the area of influence (AOI) of the proposed Northern Link (NOL), which is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within the AOI may be required to be vacated at the time of the construction of the NOL and subject to nuisance, such as noise and vibration of the proposed NOL.
- (b) He has no comment on the application from the development point of view of the NOL, provided that the applicant is satisfied with the surrounding condition of the nuisance taking into account the future construction, operation and maintenance of NOL.
- (c) The NOL alignment and its AOI may be subject to further amendments.

**Environment**

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

There was no substantiated environmental complaint concerning the Site received in the past 3 years. 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 to minimize any potential nuisances.

**Drainage**

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

- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a revised drainage proposal, and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.
- (c) His detailed comments on the submitted drainage proposal are at **Appendix V**.

**Fire Safety**

## 9.1.8 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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs 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 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, etc.) are to be carried out on Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comment on UBW, provision of access, temporary or licenced structures are at **Appendix V**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

### **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' comments on the application and he has no comment from departmental point of view

#### 9.2 The following Government departments have 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 Comment Received During Statutory Publication Period**

On 9.3.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from a Yuen Long District Council member was received (**Appendix IV**) objecting to the application mainly on the grounds that the proposed development is close to residential developments; the existing road in the area is already congested; and the footpath near the Site is narrow and the proposed development would affect the accessibility of residents.

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

- 11.1 The application is for proposed temporary shop and services (real estate agency) for a period of 3 years in “V” zone. The planning intention of the “V” zone is to reflect existing recognized 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. The proposed use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advises that there is no Small House application approved or under processing at the Site. It is considered that approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding areas which are intermixed with residential developments, a church and shop and services. According to the applicant, the development is intended to serve the nearby residents.
- 11.3 In view of its nature and the small scale of the operation, the proposed development is not expected to cause significant adverse environmental impact on the surrounding areas. Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. 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”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by imposing approval conditions in paragraph 12.2 below.
- 11.4 The Site is subject to two previous applications for temporary open storage and car park uses submitted by different applicants. The current application is for a different use. There are nine similar applications for temporary shop and services use in the same and adjoining “V” zones approved with conditions by the Committee between 2010 and 2011 (paragraph 6 and **Plan A-1a** refer). Approval

of the application is in line with the decision of the Committee on the similar applications.

- 11.5 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments 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 has no objection to the proposed temporary shop and services (real estate agency) 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 30.4.2024. 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 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of 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 30.10.2021;
- (d) in relation to (c) above, the implementation of 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 30.1.2022;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of 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 30.10.2021;

- (g) in relation to (f) above, the implementation of 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 30.1.2022;
- (h) if any of the above planning conditions (a), (b) or (e) 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
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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 at **Appendix V**.

- 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 "V" zone which is to reflect existing recognized 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. 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 with plans received on 2.3.2021 |
| <b>Appendix Ia</b>  | FI received on 19.4.2021                         |
| <b>Appendix II</b>  | Previous Applications                            |
| <b>Appendix III</b> | Similar Applications                             |
| <b>Appendix IV</b>  | Public Comment                                   |
| <b>Appendix V</b>   | Advisory Clauses                                 |
| <b>Drawing A-1</b>  | Site Layout Plan                                 |
| <b>Plan A-1a</b>    | Location Plan with Similar Applications          |
| <b>Plan A-1b</b>    | Previous Applications                            |
| <b>Plan A-2</b>     | Site Plan  |
| <b>Plan A-3</b>     | Aerial Photo                                     |
| <b>Plan A-4</b>     | Site Photos                                      |

**PLANNING DEPARTMENT  
APRIL 2021**