

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

**APPLICATION NO. A/YL-NTM/424**

<b><u>Applicant</u></b>	: Trusspeed Engineering Company Limited represented by Metro Planning & Development Company Limited
<b><u>Site</u></b>	: Lot 2613 RP (Part) in D.D. 104 and Adjoining Government Land (GL), Nagu Tam Mei, Yuen Long
<b><u>Site Area</u></b>	: About 868 m <sup>2</sup> (including 11m <sup>2</sup> (about 1.3%) of GL)
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. A/YL-NTM/12
<b><u>Zoning</u></b>	: “Residential (Group D)” (“R(D)”)
<b><u>Application</u></b>	: Proposed Temporary Shop and Services (Retail Shop of Building 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 (retail shop of building materials) for a period of 3 years. The Site falls within an area zoned “R(D)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1**). According to the Notes for the “R(D)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently paved, fenced off, and occupied by some container-converted structures and open storage of construction materials without planning permission.
- 1.2 According to the layout plan (**Drawing A-1**) submitted by the applicant, ingress/egress (8m wide) of the Site is located at its northern site boundary, which is accessible to Ngau Tam Mei Road through a local access road (**Plan A-2**). Three single-storey structures (about 3 to 4.5m in height) with a total gross floor area of about 258m<sup>2</sup> for retail shop, electricity metre room and toilet are proposed at the Site. Besides, 2 parking spaces (5m x 2.5m) for private car and a loading/unloading space (7m x 3.5m) for light goods vehicle will be provided, with vehicle manoeuvring space next to the ingress/egress of the Site. The operation hours of the proposed retail shop are between 9:00 a.m. and 7:00 p.m.

daily (including public holidays).

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

- (a) Application form received on 6.7.2021 and replacement page received on 13.7.2021 **(Appendix I)**
- (b) Further Information (FI) received on 12.8.2021 and 19.8.2021 providing responses to departmental comments **(Appendix Ia)** \*

*Remark: \* accepted and exempted from publication and recounting requirements*

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

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

- (a) The proposed development is a Column 2 use in “R(D)” zone. It is a temporary use for a period of 3 years which would not jeopardise the long term planning intention. The building materials to be made available at the Site include metal ware and hand tools for home fitting purpose. The proposed temporary shop and services (retail shop of building materials) use would benefit the nearby residents, especially the low density housing in the adjoining area, by catering their demand for building materials. It is also not incompatible with the surrounding environment including residential developments.
- (b) The applied use will be housed within an enclosed structure. No operation will be held during sensitive hours. No open storage or workshop activity will be carried out at the Site at all times. Only light goods vehicle and private car will access the Site. The negligible increase in traffic would not aggravate the traffic condition of Ngau Tam Mei Road and nearby road networks such as San Tam Road. Surface U-channel will be provided at the Site. No significant traffic, noise, environmental and drainage impacts are anticipated.
- (c) Similar planning application (No. A/YL-NTM/374) for shop and services use in the “R(D)” zone was granted with planning permission. Similar treatment should be granted to the current application. The applicant will comply with the approval conditions imposed by the Board.

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

The applicant is not the “current land owner” of the Site and 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 site notice and sending notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the “Owner’s Consent/ Notification” requirements are not applicable.

#### **4. Background**

The Site is subject to an active planning enforcement case (No. E/YL-NTM/385) against unauthorised development (UD) involving storage use (including deposit of containers). Enforcement Notice (EN) was issued on 18.5.2021 requiring discontinuation of the UD by 18.7.2021. Site inspection on 21.7.2021 revealed that the UD still continued upon expiry of the notice, prosecution action may be followed.

#### **5. Previous Application**

There is no previous application at the Site.

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

6.1 There are 5 similar applications for temporary shop and services use within the same “R(D)” zone on the OZP (**Plan A-1**).

6.2 Applications No. A/YL-NTM/234 A/YL-NTM/285, A/YL-NTM/374 and A/YL-NTM/386 for real estate office (with or without transportation office, ancillary car parks and storage) at a site to the east of the subject application site and Application No. A/YL-NTM/290 for temporary real estate office at another site in the southern part of the “R(D)” zone were approved by the Committee between 2009 and 2019 on considerations that the developments would not frustrate the long term planning intention of the “R(D)” zone and were not incompatible with the surrounding land uses; the developments would unlikely generate any adverse impacts and there were no adverse departmental comments.

6.3 Details of the applications are summarised at **Appendix II**.

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

7.1 The Site:

- (a) is accessible via a local access off Ngau Tam Mei Road from its north; and
- (b) is currently paved, fenced off and occupied by some container-converted structures and open storage of construction materials without planning permission.

7.2 The surrounding areas have the following characteristics;

- (a) to its north is some unused land. To its further north across Ngau Tam Mei Road is a low-rise private residential development (La Maison Vineyard) and unused land. Further northeast are a residential dwelling and an open storage yard which is a suspected UD;
- (b) to its immediate east are a residential dwelling with some storage structures. Further east are a site for shop and services use with previous planning

approval (No. A/YL-NTM/386) which has been revoked, some unused land and a residential dwelling;

- (c) to its south are some vacant/unused land and a nullah. To its further south across the nullah are unused land, Chun Shin Road, a pond and a vacant site with planning permission for proposed house (No. A/YL-NTM/377); and
- (d) to its further west across San Tam Road and San Tin Highway are a restaurant with ancillary car park and unused land.

## **8. Planning Intention**

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

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

- 9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

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

- (a) The Site comprises GL and 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) No permission is given for occupation of GL of about 11m<sup>2</sup> in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the subject planning application, the registered lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularise any irregularity on the Site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above 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 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 the Commissioner for Transport (C for T):

- (a) The Site is connected to Ngau Tam Mei Road via a section of local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) All vehicles of 7m or above are currently prohibited to enter Ngau Tam Mei Road.
- (c) He has no adverse comment on the application from traffic engineering perspective. Should the application be approved, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Ngau Tam Mei Road should be approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Ngau Tam Mei Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

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

He has no comment from railway development viewpoint as the Site falls outside any administrative route protection boundary, gazetted railway schemes boundary or existing railway protection boundary of any rail systems.

### **Environment**

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

The applicant is advised to follow the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by DEP.

### **Landscape**

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

- (a) With reference to the aerial photo, the Site is located in an area of miscellaneous rural fringe landscape character predominated by low-rise houses, temporary structures, farmlands and scattered tree groups. With reference to the site photos, the Site is hard paved with temporary structures. There is no tree observed within the site boundary. Another application (No. A/YL-NTM/386) for similar use within the same “R(D)” zone in adjacent east was approved on 22.3.2019. In view of the Site is not located in landscape sensitive zoning and there are no significant landscape resources within the Site, no significant landscape impact is envisaged.
- (b) In view that the Site is not located in landscape sensitive zone and is surrounded by existing trees and there is no prominent public frontage, it is considered not necessary to impose a landscape condition should the application be approved.

### **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 application from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant of the development (i) to submit a revised drainage proposal; and (ii) to implement the drainage proposal and maintain the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board.
- (c) There is no public sewer connection available in the vicinity, the applicant shall seek views and comments from DEP regarding the sewage disposal arrangement of the proposed development.
- (d) His detailed comments on the drainage proposal submitted by the applicant are at **Appendix IV**.

### **Fire Safety**

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

- (a) He has no objection in principle 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 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 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) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by 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 BO.
- (c) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of BA should be obtained, otherwise they are UBW under BO. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (d) His detailed comments are at **Appendix IV**.

#### **9.2 The following Government departments have no objection to or no comment on the application:**

- (a) Chief Engineer/Construction, Water Supplies Department;

- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Commissioner of Police;
- (d) Project Manager (West), Civil Engineering and Development Department (CEDD);
- (e) Head of Geotechnical Engineering Office, CEDD; and
- (f) District Officer (Yuen Long), Home Affairs Department.

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

On 16.7.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 6.8.2021, 32 comments were received (**Appendix III**) from individuals objecting to the application. They mainly raise objection on the grounds that the proposed development would induce traffic and drainage problems, pollution, fire risk, and affect the fung shui, safety and living quality of the villagers. It is also doubtful whether the proposed development is for open storage use.

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

- 11.1 The application is for proposed temporary shop and services (retail shop of building materials) for a period of 3 years at the Site zoned “R(D)”. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Although the applied shop and services (retail shop of building materials) use is not entirely in line with the planning intention of the “R(D)” zone, it could serve the local residents nearby. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “R(D)” zone as there is no immediate permanent development proposal for the Site.
- 11.2 The proposed development is not incompatible with the surrounding land uses with low-rise and low density residential dwellings, unused land, and shop and services use. The applicant has confirmed that no workshop activity will be carried out at the Site.
- 11.3 The proposed development would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned Government departments including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD from traffic, environment, drainage, fire safety and landscape perspectives. Should the application be approved, technical requirements of C for T, CE/MN of DSD and D of FS can be imposed as the approval conditions recommended in paragraphs 12.2 (b), (d) to (h) below. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest COP.
- 11.4 As detailed in paragraph 6, the Committee has approved 5 similar applications for



temporary shop and services uses in the same “R(D)” zone. Approval of the current application is in line with the previous decisions of the Committee.

- 11.5 32 opposing public comments were received during the statutory public inspection period of the application as detailed in paragraph 10. The planning assessment and departmental comments above are relevant.

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

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 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 27.8.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no open storage or workshop activity, as proposed by the applicant, is allowed at the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reserve onto/from public road at any time during the planning approval period;
- (c) only private car or light goods vehicle, as proposed by the applicant, is allow to access or be parked at the Site during the planning approval period;
- (d) 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 27.2.2022;
- (e) in relation to (d) above, the implementation of the revised 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 27.5.2022;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 27.2.2022;
- (h) in relation to (g) 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 27.5.2022;

- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (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.

#### 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' consideration:

the planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission. The development is not in line with the planning intention of the "R(D)" zone. 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 received on 6.7.2021 and replacement page received on 13.7.2021
<b>Appendix Ia</b>	FI received on 12.8.2021 and 19.8.2021
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Public comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Landscape Plan
<b>Plan A-1</b>	Location Plan with Similar Applications

**Plan A-2**

**Plan A-3**

**Plan A-4**

Site Plan

Aerial Photo

Site Photos

**PLANNING DEPARTMENT  
AUGUST 2021**