

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/929

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| <u>Applicant</u> | : 香港非洲人協會 (Hong Kong African Association) |
| <u>Site</u> | : Government Land in D.D. 111, Pat Heung, Yuen Long, New Territories |
| <u>Site Area</u> | : About 283m ² |
| <u>Land Status</u> | : Government Land (Short Term Tenancy No. STTYL0018 for the purpose of place of recreation, sports or culture) |
| <u>Plan</u> | : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11 |
| <u>Zoning</u> | : “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)] |
| <u>Application</u> | : Proposed Temporary Place of Recreation, Sports or Culture 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 place of recreation, sports or culture for a period of 3 years. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use within the “V” zone (**Plan A-1a**), which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced, vacant and hard paved (**Plans A-2 to A-4b**).
- 1.2 The Site is involved in three previous applications (No. A/YL-PH/88, 117 and 824) (details at paragraph 5 below) for various uses. The last application No. A/YL-PH/824 was submitted by the same applicant for the same use as the current application.
- 1.3 According to the applicant, being a charitable institution registered under the Inland Revenue Ordinance, the proposed development will serve as a community recreation centre and involve three one-storey converted containers (not more than 3.5m high) with a total floor area of about 54m² for

library, study room, activity room and multi-function room uses. The operation hours will be from 2:00 p.m. to 10:00 p.m. Mondays to Saturdays, with no operation on Sundays and public holidays (except on festive days). No car parking space is proposed within the Site. The applicant states that the number of participants to be accommodated at the Site will be about 30 to 40 people at any one time, and more than 40 people if there are events being held e.g. meeting. Four staff members will be working at the Site. No public announcement system and portable loudspeaker will be used at the Site, and all activities will take place indoor. The Site is accessible from Kam Tin Road via a local access. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 Compared with the last approved application (No. A/YL-PH/824) which was submitted by the same applicant, the current application is essentially the same in terms of the applied use, site area / boundary, layout and major development parameters.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 8.8.2022
 - (b) Further Information (FI) received on 15.9.2022 (**Appendix Ia**)

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 FI at **Appendices I** and **Ia**, which could be summarised as follows:

- (a) The proposed development will be used as a community recreation centre for organizing various activities and classes to promote African culture for all members of the public so as to enhance social inclusion and cultural integration.
- (b) The proposed use is temporary in nature and would not jeopardise the long-term planning intention of the “V” zone.
- (c) No vehicular traffic will be induced by the proposed development. It will also not create adverse environmental and drainage impacts and fire safety risk to the nearby residents.
- (d) The failure of implementing the accepted FSIs proposal and drainage proposal under the last application No. A/YL-PH/824 was because the applicant could not obtain the Lands Department’s timely approval of the Short Term Tenancy (STT) for the Site which in turn leads to revocation of the previous planning permission. The applicant undertakes to comply with all the approval conditions to be stipulated by the Board.

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

As the Site involves government land only, the “owner’s consent/notification” requirement 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) is not applicable to the application.

4. **Background**

The Site involves government land only and is not subject to any planning enforcement action.

5. **Previous Applications**

- 5.1 The Site, in part or in whole, is the subject of 3 previous applications No. A/YL-PH/88, 117 and 824 for various uses. The first two applications (No. A/YL-PH/88 and 117) for public vehicle park / temporary open storage use were not relevant to the current application. The last application (No. A/YL-PH/824), which was submitted by the same applicant for the same use, was approved with conditions by the Committee on 3.1.2020 mainly on the grounds that temporary approval of the application would not jeopardise the long-term planning intention of the “V” zone; the proposed development was considered not incompatible with the surrounding land uses; and relevant departments consulted had no adverse comments on the application. Nevertheless, the planning permission was revoked in June 2022 owing to non-compliance with approval conditions related to the implementation of drainage proposal and FSIs proposal.
- 5.2 Compared with the last application (No. A/YL-PH/824), the current application submitted by the same applicant is essentially the same in terms of the applied use, site area / boundary, layout and major development parameters.
- 5.3 Details of the previous applications are summarized in **Appendix II** and the locations are shown on **Plan A-1b**.

6. **Similar Application**

There is no similar application within the same “V” zone in the vicinity of the Site on the OZP.

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

- 7.1 The Site is:

- (a) fenced, vacant and hard paved; and

- (b) accessible via a local track leading from Kam Tin Road (about 20m) to its north.

7.2 The surrounding areas have the following characteristics:

- (a) to its north, east and southeast are an open storage yard, parking of vehicles, a home for the aged and village houses of Wang Toi Shan San Tsuen (橫台山新村);
- (b) to its further north across Kam Tin Road are village houses of Wang Toi Shan Lo Uk Tsuen (橫台山羅屋村), a refuse collection point, food shops and an open storage yard; and
- (c) to its northwest, west and southwest are parking of vehicles for sale / rental, a car park (with valid planning permission), a site with works in progress, open storage yards and village houses of Wang Toi Shan San Tsuen (橫台山新村).

8. **Planning Intention**

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. 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 need of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. **Comments from Relevant Government Departments**

All government 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.

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

The application was published for public inspection. During the statutory public inspection period, 22 public comments from the Pat Heung Rural Committee and village representatives and villagers of the Wang Toi Shan Lo Uk Tsuen were received, all of which object to the application mainly on the grounds that the proposed development would result in adverse traffic and environmental impacts,

pollution and noise nuisance, and hygiene problem, thus affecting the living quality of the nearby villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture for a period of three years in the “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. Selected commercial and community uses serving the need of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. Whilst the application is not entirely in line with the planning intention of the “V” zone, the community recreation centre can help support the nearby residents subject to proper management and operation. Besides, DLO/YL of LandsD advises that there is no application for Small House under processing or approved within the Site. It is considered that temporary approval for a period of 3 years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 According to the applicant, the proposed development is intended to serve as a community recreation centre for organizing various activities to promote African culture for all members of the public with a view to enhancing social inclusion and cultural integration. The proposed use is considered not incompatible with the surrounding land uses which are rural in character comprising mainly village houses, parking of vehicles, open storage yards and vacant land.
- 11.3 Taking into account its nature and small scale of the proposed use, it is envisaged that the proposed use would unlikely result in significant adverse traffic, environmental and drainage impacts. 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 potential impacts that may be caused by the proposed development and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be 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”.
- 11.4 The last application No. A/YL-PH/824 submitted by the same applicant for the same applied use at the Site was approved by the Committee in January 2020 (**Plan A-1b** and paragraph 5 above) but revoked in June 2022 owing to non-compliance with approval conditions. In this regard, the applicant explains that the planning permission was revoked because he could not obtain the STT application approval in a timely manner for implementation of

the accepted proposals. In the current application, the applicant has included the FSIs and drainage proposals in support of the application with no adverse comment received from D of FS and CE/MN of DSD. As there have been no major changes in the planning circumstances since approval of the last application, approval of the current application is in line with the Committee's decision on the previous application. As the current application is subject to revocation of a previous planning approval due to non-compliance with approval conditions, the applicant will be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given by the Committee to any further similar applications.

- 11.5 Regarding the 22 public comments received during the statutory publication period objecting to the application as detailed in paragraph 10 above, government departments' comments as well as planning assessments and considerations above are relevant. An advisory clause is also recommended to advise the applicant to liaise with the locals on the proposed development at the Site.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary use under application 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 implementation of the accepted 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 (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the implementation of the accepted 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;
- (d) if the above planning condition (b) 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

- (e) if any of the above planning condition (a) or (c) 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 "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. There is no strong planning justification 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

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| Appendix I | Application form with supplementary information received on 8.8.2022 |
| Appendix Ia | FI received on 15.9.2022 |
| Appendix II | Previous application covering the Site |
| Appendix III | Government departments' general comments |
| Appendix IV | Recommended advisory clauses |
| Appendix V | Public comments |

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| Drawing A-1 | Site layout plan |
| Plan A-1a | Location plan |
| Plan A-1b | Previous application plan |
| Plan A-2 | Site plan |
| Plan A-3 | Aerial photo |
| Plan A-4a & 4b | Site photos |

**PLANNING DEPARTMENT
SEPTEMBER 2022**