

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/521

- Applicant** : Mr. LUNG Man Kwong
- Site** : Lots 3314 S.A and 3314 RP in D.D. 120, Sham Chung Tsuen, Yuen Long, New Territories
- Site Area** : 680 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Private Swimming Pool for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary private swimming pool for a period of 3 years (**Plan A-1**). Although the applied use is neither a Column 1 or 2 use in the “V” zone, the covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of three years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently occupied by two New Territories Exempted Houses (NTEHs), which are always permitted within the “V” zone, and the applied use which is covered by a valid planning permission under application No. A/YL-TT/427 (**Plans A-2 and A-4**).
- 1.2 The Site involves eight previous applications for the same use as the current application or minor amendment to the approved temporary swimming pool (**Plan A-1**). The last application (No. A/YL-TT/427) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 18.5.2018. Time-limited approval condition under the last application had been complied with and the permission is valid until 17.7.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and

development parameters.

- 1.3 The swimming pool is largely in rectangular shape with a depth ranging from 1.2m to 2.4m. A filtration plant room of about 2.5m height is situated at the southwest corner of the Site. According to the applicant, the private swimming pool will only serve his family members. A site 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 plans received on 14.4.2021 **(Appendix I)**
 - (b) Supplementary Information received on 20.4.2021 **(Appendix Ia)** providing replacement page of the Application Form, revised site layout plan and clarification on drainage facilities
 - (c) Supplementary Information received on 22.4.2021 **(Appendix Ib)** clarifying the height/depth of the structures

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and Supplementary Information (**Appendices I to Ib**). They can be summarised as follows:

The private swimming pool could beautify the living environment. The drainage facilities implemented under the last application will be maintained at all times.

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

The applicant is one of two “current land owners” 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 notifying the other “current land owner” through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves eight previous applications (No. A/YL-TT/138, 147, 188, 233, 291, 337, 351 and 427) for the same use as the current application or minor amendments to the approved temporary private swimming pool. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-TT/138, 188, 233, 291, 337 and 351 for the same use as the current application were approved with conditions each for a period of 3 years by the Committee between 2002 and 2015, mainly on the considerations that the proposals would not adversely affect the village character of the area or they were not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. Application No. A/YL-TT/147 for minor amendment to the approved scheme under application No. A/YL-TT/138 was approved with conditions by the then District Planning Officer/Tuen Mun and Yuen Long under the delegated authority of the Board on 8.8.2003 with validity up to 22.11.2005. However, the planning permissions under applications No. A/YL-TT/138 and 337 were subsequently revoked in 2004 and 2015 respectively due to non-compliance with time-limited approval conditions.
- 6.3 The last application No. A/YL-TT/427 for the same use as the current application submitted by the same applicant was approved with conditions for a period of 3 years by the Committee on 18.5.2018 mainly on similar considerations as those stated in paragraph 6.2 above. Time-limited approval condition under the last application had been complied with and the planning permission is valid until 17.7.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. Similar Application

There is no similar application within the subject “V” zone.

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

- 8.1 The Site is:
- (a) accessible from Sham Chung Road to its south via a short local track;
 - (b) paved and fenced off; and
 - (c) currently occupied by two NTEHs and the applied use with valid planning permission under application No. A/YL-TT/427 (**Plan A-2** and **A-4**).
- 8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
- (a) rural residential in nature comprising predominantly village houses intermixed

with scattered storage yards, workshop, car parks, various shop and services, refuse collection point, agricultural land and vacant land/structures;

- (b) there are several residential structures in the immediate vicinity of the Site, with the main cluster of the village houses of Sham Chung Tsuen located to its north; and
- (c) except for three shop and services operating with valid planning permissions (No. A/YL-TT/445, 455 and 517) as well as one storage yard to the southeast of the Site, the other storage yards, workshop and car parks in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. 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 the 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 the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots 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) Building Licence Nos. 7159 and 7186 were issued to permit erection of one 3-storey building with roof-over area of 65.03m² for non-industrial purposes to Lots 3134 S.A and 3314 RP in D.D. 120 respectively and they are NTEHs governed by Cap. 121. The remainder of Lots 3314 S.A and 3314 RP in D.D. 120 are covered by Short Term Waivers (STWs) No. 3179 and 3180 respectively to permit structures erected thereon for the purpose of “Private Swimming Pool with Associated Filtration Plant Room”.
- (c) Should planning approval be given to the subject planning application,

the STWs holders will need to apply to her office for modification of the STWs conditions where appropriate. 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 her department acting in the capacity of 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 premium or fee, as may be imposed by her department.

- (d) There is no Small House application under processing within the Site.

Traffic

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

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

Environment

10.1.3 Comments of the Director of Environmental Protection (DEP):

He has no objection to the application in view of the scale and nature of the applied use. The applicant should be reminded of the detailed comments at **Appendix V**.

Environmental Hygiene

10.1.4 Comments of the Director of Food and Environmental Hygiene (DFEH):

The applicant should be reminded of the detailed comments at **Appendix V**.

Landscape

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

The applicant should be reminded of the detailed comments at **Appendix V**.

Drainage

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

- (a) He has no objection in principle to the development.

- (b) Presumably, the applicant would maintain the same drainage facilities as those maintained under previous application No. A/YL-TT/427.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TT/427 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Water Supply

10.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

He has no objection to the application. The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

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

Her office has not received any comments from the village representatives in the vicinity regarding the application.

10.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Commissioner for Transport (C for T);
- (c) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Director of Fire Services (D of FS); and
- (f) Director of Agriculture, Fisheries and Conservation (DAFC).

11. Public Comments Received During Statutory Publication Period

On 23.4.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One individual objected to the application mainly on the grounds that the temporary use has been in existence for 20 years and the Site should be used for public purposes or Small House development (**Appendix IV-1**). The other individual questioned the progress of examining the mechanism to accommodate the applied use in the “V” zone and opined that there should be restrictions on non-residential uses in “V” zone (**Appendix IV-2**).

12. Planning Considerations and Assessment

- 12.1 The application is for renewal of planning approval for temporary private swimming pool for a period of 3 years. Although the applied use is not entirely in line with the planning intention of the “V” zone, which is primarily for development of Small Houses by indigenous villagers, it is intended to serve the residents of two residences. Moreover, there is currently no Small House application under processing at the Site as advised by DLO/YL, LandsD. As such, approval of the application on a temporary basis for three years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The surrounding areas comprise predominantly village houses (**Plan A-2**). The development is generally not incompatible with the surrounding uses.
- 12.3 The application is generally in line with TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TT/427; the time-limited approval condition under the previous application had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 There is no adverse comment on the application from concerned government departments, including C for T, DEP and CE/MN, DSD. Adverse environmental, traffic and drainage impacts arising from the applied use are not expected. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to observe/follow the relevant ordinances and guidelines in order to minimise any potential environmental impact on the surrounding areas.
- 12.5 Given that eight previous approvals for the same use have been granted to the Site, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.6 There were two public comments received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments summarised in paragraph 11 above, the Planning Department considers that the temporary private swimming pool could be tolerated for a further period of 3 years.
- 13.2 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 and be renewed from 18.7.2021 to 17.7.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of the commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.10.2021;
- (d) if any of the above planning conditions (a) or (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 the above planning condition (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.

[All the approval conditions are the same as those under the permission for application No. A/YL-TY/427.]

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

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

the applied use is not in line with the planning intention of the "V" zone which is primarily for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with plans received on 14.4.2021
Appendix Ia	Supplementary Information received on 20.4.2021
Appendix Ib	Supplementary Information received on 22.4.2021
Appendix II	Relevant Extracts of TPB PG-No. 34C
Appendix III	Previous Applications covering the Site
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**