

**REVIEW OF APPLICATION NO. A/YL-PS/611**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Temporary Storage Use for a Period of 3 Years  
in “Village Type Development” Zone  
at Lots 293 S.A ss.1 (Part), 293 S.A ss.2 (Part), 293 S.B ss.1 (Part) and  
293 S.B ss.2 (Part) in D.D. 122, Ping Shan, Yuen Long, New Territories**

**1. Background**

- 1.1 On 9.7.2020, the applicant, Ms. TANG Kit Ching, sought planning permission for temporary storage use for a period of 3 years under s.16 of the Town Planning Ordinance (the Ordinance) at the application site (the Site). The Site falls within an area zoned “Village Type Development” (“V”) on the approved Ping Shan Outline Zoning Plan No. S/YL-PS/18 (the OZP) (**Plan R-1**).
- 1.2 On 18.12.2020, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
  - (a) the applied use was not in line with the planning intention of the “V” zone which was primarily intended for development of Small Houses by indigenous villagers. No strong justification had been given in the submission for a departure from the planning intention, even on a temporary basis; and
  - (b) approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such similar applications would result in general degradation of the environment of the area.
- 1.3 The Site is about 340m<sup>2</sup> and is accessible via a local track leading to Ping Shan Nam Pak Road to its north (**Plans R-2 and R-3**). As shown on the proposed layout plan at **Drawing R-1**, the Site comprises two portions with five single-storey container structures, with a total floor area of about 74.322m<sup>2</sup>, for storage of miscellaneous items such as farming tools, religious articles and old furniture. The applicant stated that the frequency of moving in and out of the items is minimal, which is a few times in a year, and light goods vehicle will be used. According to the applicant, the Site belongs to the applicant’s family and they would like to make use of the Site for storage purpose. The applicant has no intention to use the Site as container storage yard or warehouse. Container structures are used to protect the items from rain and sun.
- 1.4 The Site is subject to an enforcement action against unauthorised development (UD) involving storage use. Enforcement Notice No. E/YL-PS/714 was issued

on 25.5.2020 requiring discontinuation of UD by 25.8.2020 (**Plan R-2**). A recent site inspection revealed that UD was not discontinued. Prosecution action may be taken by the Planning Authority.

1.5 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. A/YL-PS/611A (**Annex A**)
- (b) Extract of minutes of the RNTPC meeting held on 18.12.2020 (**Annex B**)
- (c) Secretary of the Board's letter dated 8.1.2021 (**Annex C**)

## **2. Application for Review**

On 21.1.2021, the applicant applied, under s.17(1) of the Ordinance, for a review of RNTPC's decision to reject the application. In support of the review application, the applicant has submitted an email dated 21.1.2021 requesting for a review of the RNTPC's decision and providing grounds for the review application (**Annex D**).

## **3. Justifications from the Applicant**

The grounds for review put forth by the applicant in support of the review are detailed in **Annex D**. They can be summarised as follows:

- (a) The Site has been idled for many years because it is subject to the landslide problem. The Government had no intention to fix the problem. It costs too much for her to maintain the slope by herself. Therefore, no Small House has been built at the Site for decades.
- (b) Since there is no similar application within the same "V" zone, the consideration of the cumulative effect of approving similar applications resulting in degradation of the environment of the area may not be substantial.

## **4. The Section 16 Application**

The Site and Its Surrounding Areas (**Plans R-1 to R-4b**)

4.1 The situation of the Site and its surrounding areas at the time of the consideration of the s.16 application by RNTPC was described in paragraphs 7.1 and 7.2 of **Annex A**. There has been no major change of the situation since then.

4.2 The Site is:

- (a) currently used for the applied use without valid planning permission (**Plan R-2**); and
- (b) accessible via a local track leading to Ping Shan Nam Pak Road to its north. (**Plans R-2 and R-3**).

4.3 The surrounding areas have the following characteristics (**Plans R-2 and R-3**):

- (a) the immediate surrounding are mainly vacant land, graves and slopes covered by vegetation;

- (b) to the west are residential and storage and open storage of recyclable materials, which may be UDs, and Ping Shan Nam Pak Road;
- (c) to the further north are cultivated agricultural land and residential dwellings; and
- (d) to the further south are residential dwellings of Hang Tau Tsuen and open storage and parking of vehicles which may be UDs.

#### Planning Intention

- 4.4 There has been no change to the planning intention of “V” zone as mentioned in paragraph 8 of **Annex A**. The planning intention of “V” zone is to reflect existing recognised 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 the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

#### Previous Application

- 4.5 There is no previous application covering the Site.

#### Similar Application

- 4.6 There is no similar application within the same “V” zone.

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

- 5.1 For the review application, the following Government department has been further consulted and his comments are summarised as follows:

#### **Geotechnical Aspect**

- 5.1.1 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He noted the original s.16 application was rejected by RNTPC on 18.12.2020. Regarding the applicant’s comments in **Annex D**, any developments with geotechnical concerns and/or slope stability issues would be considered on a case-by-case basis. This is normally done with the support of geotechnical assessment by the applicant.
- (b) He has no comment on the review application. For information, there is an existing man-made slope located at and in the vicinity

of the Site (**Plans R-2 and R-4b**).

- 5.2 The following Government departments maintain their previous comments on the s.16 application in paragraph 9.1 of **Annex A**, which are recapitulated below:

**Land Administration**

- 5.2.1 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 prior approval of the Government.
- (b) There is no Small House application approved or under processing at the Site.
- (c) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit structures to be erected or regularise any irregularities on site, if any. 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**

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Ping Shan Nam Pak Road and the local track leading to the Site is not under Transport Department's purview. The applicant shall obtain consent of the owners/managing departments of Ping Shan Nam Pak Road and the local track for using them as the vehicular access to the Site.

- 5.3 The following Government departments maintain their previous views on the s.16 application as stated in paragraph 9.1 of **Annex A**:

- (a) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (b) Director of Environmental Protection (DEP);
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);

- (d) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (e) Director of Fire Services (D of FS);
- (f) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD); and
- (g) District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD).

5.4 The following Government departments maintain their previous views of having no comment on the review application:

- (a) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Project Manager (West) (PM(W)), CEDD.

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

- 6.1 On 29.1.2021, the review application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to the review application (**Annexes E-1 and E-2**) mainly on grounds that the proposed development would have adverse environmental and traffic impacts, fire safety concern and undesirable precedent.
- 6.2 At the stage of s.16 application, two public comments on the application were received objecting to the application. Details are in paragraph 10 of **Annex A**.

## **7. Planning Considerations and Assessments**

- 7.1 The application is for temporary storage use involving 5 single-storey container structures for storage of miscellaneous items such as farming tools, religious articles and old furniture for a period of 3 years at the Site zoned “V” on the OZP (**Plan R-1**). The application was rejected for the reasons that the proposed development was not in line with the planning intention of the “V” zone and approval of the application would set an undesirable precedent for similar applications within the “V” zone.
- 7.2 The applicant submitted justifications in support of the review application mainly on grounds that the Site was idled because of the landslide hazard and the consideration of undesirable precedent was not substantiated. Since the consideration of the s.16 application by RNTPC on 18.12.2021, there has been no material change in planning circumstances. The planning considerations and assessments as set out in paragraph 11 of **Annex A** remain valid and are recapitulated below.

### *Planning Intention of “V” Zone*

- 7.3 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. Though

there is no Small House application approved or under processing at the Site, the applied use for storage of the applicant's own items is not serving the needs of the villages or in support of the village development. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

#### *Land Use Compatibility*

- 7.4 The Site is located at the fringe of the "V" zone and close to a "GB" zone which is covered by vegetation (**Plans R-2 and R-3**). The applied use comprising 5 single-storey container structures is considered not entirely compatible with the surrounding rural settlements and the adjoining "GB" zone.

#### *Landslide Issue*

- 7.5 Although the applicant claimed that the Site is not suitable for Small House development due to the landslide issue, H(GEO), CEDD advised that the geotechnical concern and/or slope stability issue of any development would be considered on a case-by-case basis with the support of geotechnical assessment by the applicant. In this regard, there is insufficient information to demonstrate that the Site is not suitable for Small House development.

#### *Undesirable Precedent*

- 7.6 The Site is not involved in any previous application, and there has not been any similar application approved for temporary storage use in the same "V" zone. Although there are storage uses/brownfield operations in the vicinity of the Site (**Plan R-2**), they are mostly suspected UD's subject to investigation/enforcement action taken by the Planning Authority. Approval of the application would set an undesirable precedent for similar applications within the "V" zone, causing general degradation to the environment of the area.

#### *Public Comments*

- 7.7 There are two public comments objecting to the review application mainly on grounds stated in paragraph 6 above. The planning considerations and assessments in paragraphs 7.1 to 7.6 above are relevant.

### **8. Planning Department's Views**

- 8.1 Based on the assessments made in paragraph 7, having taking into account the public comments mentioned in paragraph 6 and given that there is no major change in the planning circumstances since the consideration of the application by RNTPC on 18.12.2020, the Planning Department maintains its previous view of not supporting the review application for the following reasons:

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

- (b) approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such similar applications would result in general degradation of the environment of the area.

8.2 Alternatively, should the Board decide to approve the application on review, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **9.4.2024**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the provision of boundary fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **9.10.2021**;
- (b) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.10.2021**;
- (c) in relation to (b) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.1.2022**;
- (d) 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 **9.10.2021**;
- (e) in relation to (d) above, the implementation of the drainage proposal within **9** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.1.2022**;
- (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) if the above planning condition (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
- (h) if any of the above planning conditions (a), (b), (c), (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 at **Annex F**.

**9. Decision Sought**

9.1 The Board is invited to consider the application for review of RNTPC’s decision and decide whether to accede to the application.

- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review 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.

**10. Attachments**

<b>Drawing R-1</b>	Proposed Layout Plan
<b>Plan R-1</b>	Location Plan
<b>Plan R-2</b>	Site Plans
<b>Plan R-3</b>	Aerial Photo
<b>Plans R-4a to R-4b</b>	Site Photos
<b>Annex A</b>	RNTPC Paper No. A/YL-PS/611A
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 18.12.2020
<b>Annex C</b>	Secretary of the Board's letter dated 8.1.2021
<b>Annex D</b>	Applicant's email of 21.1.2021
<b>Annexes E-1 and E-2</b>	Public comments
<b>Annex F</b>	Advisory Clauses

**PLANNING DEPARTMENT  
APRIL 2021**