

TOWN PLANNING BOARD

Minutes of 312th Meeting of the Rural and New Town Planning Committee held on 23.9.2005

Present

Director of Planning
Mr. Bosco C.K. Fung

Chairman

Mr. Michael K.C. Lai

Vice-chairman

Mr. Alex C.W. Lui

Mr. C.K. Wong

Professor Nora F.Y. Tam

Mr. David W.M. Chan

Dr. Lily Chiang

Professor David Dudgeon

Professor Peter R. Hills

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Dr. C.N. Ng

Mr. Alfred Donald Yap

Assistant Commissioner for Transport/New Territories,
Transport Department
Miss Cindy Law

Assistant Director (Environmental Assessment and Noise),
Environmental Protection Department
Mr. Elvis Au

Assistant Director/New Territories, Lands Department
Mr. Francis Ng

Deputy Director of Planning/District
Mr. Raymond Chiu

Secretary

Absent with Apologies

Professor K.C. Ho

Mr. Francis Y.T. Lui

Ms. Carmen K.M. Chan

Assistant Director (2), Home Affairs Department
Mr. Patrick Li

In Attendance

Assistant Director of Planning/Board
Mr. P.Y. Tam

Chief Town Planner/Town Planning Board
Mr. C.T. Ling

Town Planner/Town Planning Board
Mr. Anthony K.O. Luk

Agenda Item 1

Confirmation of the Draft Minutes of the 311th RNTPC Meeting held on 9.9.2005

[Open Meeting]

1. The draft minutes of the 311th RNTPC meeting held on 9.9.2005 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

(i) New Town Planning Appeal Received

(a) Town Planning Appeal No. 18 of 2005

Proposed Comprehensive Residential/Commercial Development with Government, Institution and Community, and Open Space Uses in “Comprehensive Development Area” zone of Land Development Corporation Lee Tung Street and McGregor Street Development Scheme Plan Area, Wan Chai

(Application No. A/H5/349)

2. The Secretary reported that the Town Planning Appeal Board (TPAB) on 15.9.2005 received an appeal against the decision of the Town Planning Board (TPB) on 22.7.2005 to reject on review an application (No. A/H5/349) for comprehensive residential/commercial development with government, institution and community, and open space uses at a site zoned “Comprehensive Development Area” on the Land Development Corporation Lee Tung Street and McGregor Street Development Scheme Plan. The hearing date of the appeal was yet to be fixed.

- (b) Town Planning Appeal No. 19 of 2005
Temporary Container Vehicle and Lorry Park
for a Period of 3 Year in “Undetermined” zone
Lots 120(Part), 121, 122, 246RP(Part), 247, 248A, 248B,
248RP(Part), 249RP, 250RP and 254RP in DD122, Ping Shan, Yuen Long
(Application No. A/YL-PS/206)
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3. The Secretary reported that the TPAB on 16.9.2005 received an appeal against the decision of the TPB on 8.7.2005 to reject on review an application (No. A/YL-PS/206) for temporary container vehicle and lorry park for a period of 3 years at a site zoned “Undetermined” on the approved Ping Shan Outline Zoning Plan No. S/YL-PS/11. The hearing date of the appeal was yet to be fixed.

[Mr. Elvis Au arrived to join the meeting at this point.]

(iii) Appeal Statistics

4. The Secretary said that as at 23.9.2005, 22 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows:

Allowed	:	12
Dismissed	:	81
Abandoned/Withdrawn/Invalid	:	111
Yet to be Heard	:	22
<u>Decision Outstanding</u>	:	<u>3</u>
Total	:	229

Sai Kung and Sha Tin District

[Mr. Michael C.F. Chan, District Planning Officer/Sai Kung and Sha Tin (DPO/SK&ST), was invited to the meeting at this point.]

Agenda Item 3

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/628 Proposed Redevelopment of an Existing House
 (other than New Territories Exempted House)
 in “Village Type Development” zone,
 Lot 581 in DD 175,
 Ha Wo Che,
 Sha Tin

 (RNTPC Paper No. A/ST/628)

[Professor David Dudgeon arrived to join the meeting at this point.]

Presentation and Question Sessions

5. Mr. Michael C.F. Chan, DPO/SK&ST, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed redevelopment of an existing house (other than New Territories Exempted House (NTEH));
- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) no public comments and no local objection were received; and
- (e) the Planning Department’s views – Planning Department did not support the application for the reasons as stated in paragraph 10.2 (a) of the Paper that there was no strong justification for such a significant increase in the development intensity upon redevelopment; and approval of the application would set an undesirable precedent.

[Mr. Tony C.N. Kan arrived to join the meeting at this point.]

6. Questions raised by the Chairman and Members were :

- (a) whether planning approval was given to the two-storey house adjoining the application site as shown on Plan A-4;
- (b) clarification was sought on a comparison between the development density proposed with that of the lease entitlement and a NTEH;
- (c) clarification was sought on the likelihood of setting an undesirable precedent if the application was approved; and
- (d) whether the density of the surrounding houses (site coverage of 100% and plot ratio of 3) as claimed by the applicant in paragraph 2(c) of the Paper was correct.

7. In reply, Mr. Michael Chan made the following points :

- (a) the two-storey house was completed long time ago and there was no record of similar application in the same “Village Type Development” (“V”) zone;
- (b) the application site was restricted under the lease to one residence of European type of not more than two storeys and not more than 50% of the total area of the lot should be built-over. Based on a site area of 255m², the total gross floor area (GFA) permissible under lease should be 255m². Compared with the existing single-residence house with an estimated GFA of 83m², the proposed development intensity (total GFA of 309m²) would represent an increase of 272%. Such development intensity was also much higher than a NTEH (total GFA of 195m²);

- (c) there was no detailed information on the land status of individual lots of the village. Since the proposed development intensity was higher than both the lease entitlement and that of a NTEH, it would inevitably set an undesirable precedent; and
- (d) the Lands Department would not approve NTEH development to cover an entire lot. Thus NTEHs in “V” zone would not in effect be contiguous to each other. Regarding the building form, as shown on the site photo at Plan A-4, the building height of the houses in the surrounding areas ranged from one to three storeys.

8. In response to question (b) above, Mr. Francis Ng supplemented that the application site was restricted to development of ‘one residence’, lease modification would be required for the proposed development of three flats if the application was approved.

Deliberation Session

9. The Chairman remarked that although the application site was zoned “V” which was primarily intended for development of NTEH by indigenous villagers, redevelopment of an existing house other than NTEH would normally be allowed on land with building right under the lease. However, the proposed development density had exceeded the lease entitlement and that of a NTEH. This was not in line with the past practices of the Committee and the original planning intention of “V” zone.

10. Two Members had the following views on the proposed redevelopment :

- (a) compared with the lease entitlement (GFA of 255m²), the additional increase in GFA (about 50m²) was not significant.;
- (b) having the same building height as a NTEH, the proposed development would not materially change the character of the area;
- (c) similar redevelopment within the same “V” zone was very rare. Approval of the application would unlikely set an undesirable precedent;

and

- (d) most of the Government departments including the Lands Department had no objection to the application.

11. Some Members had the following views on the proposed redevelopment :

- (a) the transition from one residence to three flats was significant. There was no special circumstance that merited sympathetic consideration by the Committee;
- (b) although the additional increase in GFA compared with the lease entitlement (about 50m²) was not significant in absolute terms, it would be difficult for the Committee to deal with similar applications with more substantial additional increase in GFA. The effect of setting an undesirable precedent would therefore not be limited to the subject “V” zone;
- (c) the proposed redevelopment would intensify the development density of the area.

12. Mr. Francis Ng advised that the subject land was granted before World War II by way of Government Notification. The lease restriction for one residence intended for the habitation of a single family was rare in the New Territories. Subdivision of a NTEH for the residence of three families was however not uncommon.

13. The Chairman said that the consideration of the application involved two broad principles, namely, giving due regard to the lease entitlement and the planning intention of “V” zone. The justifications put forward by the applicant in deviating from these broad principles were rather weak. Most of the Members shared this view.

14. Since the Committee had dealt with quite a number of similar cases before, a Member suggested that the past practices of the Committee should be consolidated for the Committee’s reference in assessing this type of application. Other Members agreed.

15. After further deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed redevelopment would result in a significant increase in its development intensity and no strong justifications had been provided in the submission for such a significant increase in development intensity; and
- (b) the approval of the application would set an undesirable precedent for other similar applications and the cumulative effect of approving such similar applications would adversely affect the provision of infrastructural facilities in the village area.

16. The Committee also agreed to request the Secretariat to review the past practices of the Committee in handling redevelopment of houses other than New Territories Exempted Houses in “Village Type Development” Zone.

[The Chairman thanked Mr. Michael C.F. Chan, DPO/SK&ST, for his attendance to answer Members’ enquiries. Mr. Chan left the meeting at this point.]

Tai Po and North District

[Mr. W.K. Hui, District Planning Officer/Tai Po and North (DPO/TPN), was invited to the meeting at this point.]

Agenda Item 4

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/NE-PK/25 Proposed New Territories Exempted House (Small House) in “Village Type Development” and “Agriculture” zones, Lot 1604B in DD 91, Kai Leng, Sheung Shui
(RNTPC Paper No. A/NE-PK/25)
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- (ii) A/NE-PK/26 Proposed New Territories Exempted House (Small House) in “Village Type Development” and “Agriculture” zones, Lot 1604C in DD 91, Kai Leng, Sheung Shui
(RNTPC Paper No. A/NE-PK/26)
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Presentation and Question Sessions

17. Mr. W. K. Hui, DPO/TPN, presented the applications and covered the following aspects as detailed in the Paper :

- (a) background to the applications;
- (b) the proposed Small House developments;

[Mr. Alex C.W. Lui arrived to join the meeting at this point.]

- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) no public comments and no local objection were received; and
- (e) the Planning Department’s views – Planning Department had no objection to the application for reasons given in paragraph 11.1 of the Paper.

18. Members had no question on the applications.

Deliberation Session

19. A Member commented that there was no mechanism to prevent a planning permission from renewing repeatedly. This Member suggested that a shorter planning approval period should be imposed. The Chairman responded that under the Town Planning

Board Guidelines No. 35 on Extension of Time for Commencement of Development, the Board might consider that an approved development had commenced as at the date of execution of land grant/lease modification or approval of building plans. If an approved development had not commenced within the specified time limit, the applicant had to apply for an extension of time for commencement of the development. The Committee normally gave favourable consideration to this type of application. Under the TPB Guidelines No. 35, such extension(s) of time should not result in an aggregate extension period longer than the original duration for commencement of the approved development proposal. The Committee might impose a shorter approval period so long as it was reasonable.

20. After deliberation, the Committee decided to approve the Applications No. A/NE-PK/25 and A/NE-PK/26, each on the terms of the application as submitted to the Town Planning Board. The permissions should be valid until 23.9.2009, and after the said date, the permission should cease to have effect unless before the said date, the developments permitted were commenced or the permissions were renewed. The permissions were subject to the following conditions :

- (a) the submission and provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the provision of fire services installations and emergency vehicular access to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (c) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board.

21. The Committee also agreed to advise the applicants of the following :

- (a) the trees in the vicinity of the application sites should be preserved as far as practicable;
- (b) the need to extend their inside services to the nearest Government water mains for connection should be assessed and to sort out the land matters

associated with the main laying in private lots; and

- (c) the proposed drainage works, whether within or outside the lot boundaries, should be constructed and maintained by the lot owners at their own expenses. For works to be undertaken outside the lot boundary, the applicants should obtain prior consent and agreement from the District Lands Officer/North and/or relevant private lot owners.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/TP/354 Proposed House (New Territories Exempted House)
(NTEH) (Small House)
in “Green Belt” zone,
Lot 426E in DD 5,
San Wai Tsai Village,
Tai Po

(RNTPC Paper No. A/TP/354)

Presentation and Question Sessions

22. Mr. W. K. Hui, DPO/TPN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed Small House development;
- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) no public comments and no local objection were received; and
- (e) the Planning Department’s views – Planning Department had no objection to the application for reasons given in paragraph 12.1 of the Paper.

23. Members had no question on the application.

Deliberation Session

24. The Chairman remarked that the proposed Small House development was generally in line with the interim criteria for assessing planning application for NTEH/Small House development. The application site was within the village 'environs' and there was insufficient land in the "Village Type Development" zone to satisfy the Small House demand.

25. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board and subject to the condition that the submission and provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board. The permission should be valid until 23.9.2009, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed.

26. The Committee also agreed to advise the applicant of the following :

- (a) the applicant should assess the need to extend his inside services to the nearest Government water mains for connection, and to sort out the land matters related to the construction, operation and maintenance of the inside services within the private lots;
- (b) the applicant should consult the Environmental Protection Department regarding the sewage treatment/disposal method for the proposed development;
- (c) the applicant should observe the "Code of Practice on Working near Electricity Supply Lines" when carrying out works in the vicinity of electricity supply lines. Prior to establishing any structure within the application site, the applicant should liaise with CLP Power Hong Kong Ltd. to divert the existing low voltage cables away from the vicinity of the proposed development; and

- (d) the applicant should take all necessary measures to avoid affecting the streamcourse nearby during the construction stage.

[The Chairman thanked Mr. W.K. Hui, DPO/TPN for his attendance to answer Members' enquiries. Mr. Hui left the meeting at this point.]

Tuen Mun and Yuen Long District

[Mr. Wilson Y.L. So, District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), and Mr. P.C. Mok, Senior Town Planner/Tuen Mun and Yuen Long (STP/TMYL), were invited to the meeting at this point.]

Agenda Item 5

Section 16/16A Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/TM-LTY Y/128 Temporary Vehicle Repair Workshop, Sales and Purchases of Vehicles and Ancillary Office for a Period of 3 Years in "Village Type Development" zone,
Lots 3659B3RP(Part), 3669RP(Part), 3670, 3671(Part),
3675D, 3675E(Part), 3675RP, 3676RP(Part), 3721(Part)
and Adjoining Government Land in DD 124,
Shun Tat Street,
Tuen Mun

(RNTPC Paper No. A/TM-LTY Y/128)

Presentation and Question Sessions

27. Mr. P.C. Mok, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed temporary vehicle repair workshop, sales and purchases of vehicles and ancillary office;

[Dr. Lily Chiang left the meeting temporarily at this point.]

- (c) departmental comments – the Environmental Protection Department did not support the application as the environmental impacts and nuisance would affect the existing sensitive uses nearby. The proposed vehicular access point at Shun Tat Street was unacceptable to the Transport Department. The Drainage Services Department considered that a drainage impact assessment should be carried out to demonstrate that the proposed development would not increase the flooding susceptibility of the adjacent areas;
- (d) no public comments and no local objection were received; and
- (e) the Planning Department’s views –Planning Department did not support the application for the reasons as stated in paragraph 11.1 of the Paper that the development was not in line with the planning intention of the “Village Type Development” zone, not compatible with the residential character of the surrounding areas, the vehicular access point was unacceptable, and the applicant had not demonstrated that the development would have no adverse drainage and environmental impacts on the surrounding areas.

28. Members had no question on the application.

Deliberation Session

29. The Chairman remarked that the application site was the subject two previous planning applications rejected by the Committee in 2001 and 2005. Concerned Government departments maintained their objections to the application and there was no change in circumstance that justified a departure from the previous decisions of the Committee.

30. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the development was not in line with the planning intention of the “Village Type Development” (“V”) zone which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion. Land within “V” zone was primarily intended for development of Small Houses by indigenous villagers. There was no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the development was not compatible with the residential dwellings in the surrounding areas;
- (c) the proposed vehicular access point at Shun Tat Street was considered unacceptable; and
- (d) there was no information in the submission to demonstrate that the development would not have adverse drainage and environmental impacts on the surrounding areas.

[Dr. Lily Chiang returned to the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/TM-SKW/47 Temporary Barbecue Area with Structures
for a Period of 3 Years
in “Village Type Development” zone,
Lots 258, 260, 261(Part) and 262B(Part) in DD 385,
Tai Lam Chung,
Tuen Mun

(RNTPC Paper No. A/TM-SKW/47)

Presentation and Question Sessions

31. Mr. P.C. Mok, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary barbecue area with structures;
- (c) departmental comments – the Drainage Services Department had concern over the drainage conditions of the site. Should the application be approved, proper stormwater drainage system should be provided. In this connection, the last sentence of paragraph 11.1 (c) of the Paper should be revised to read ‘approval condition (d) and (e)’ instead of ‘(c) and (d)’. Other concerned Government departments had no objection to the application.
- (d) no local objection whilst one public comment raising objection on grounds of nuisances generated from the barbecue activities was received; and
- (e) the Planning Department’s views – Planning Department had no objection to the application for reasons given in paragraph 11.1 of the Paper.

32. Questions raised by the Chairman and Members were :

- (a) whether the previous Application No. A/TM-SKW/42 was submitted by the same applicant and whether the current application site was relatively closer to the village settlements;
- (b) clarification was sought on the nature of objection received by Lands Department as mentioned in paragraph 9.1.1 (b) of the Paper; and
- (c) whether the open storage of containers to the south of the application site was subject to a planning permission.

33. In reply, Mr. Wilson Y. L. So, DPO/TMYL, made the following points :
- (a) the Application No. A/TM-SKW/42 for a temporary barbecue area was submitted by a different applicant. Both application sites were located within the same “Village Type Development” zone of the Tai Lam Chung Tsuen but were away from the major village settlements. The present application site was however comparatively closer to a few houses to the north;
 - (b) the nature of the complaint was unknown as it was an anonymous letter objecting to the current activities at the site. However, the villagers of Tai Lam Chung Tsuen and Luen On San Tsuen raised objection to the present application; and
 - (c) the open storage use to the south of the application site was an existing use tolerated under the Town Planning Ordinance.

Deliberation Session

34. Given the sheer size of the application site and the proximity of the previously approved barbecue site to the south, a Member was concerned that this area might turn into some kind of recreational centre and the cumulative impacts of which would affect the local villagers. It was also noted that the application site was subject to enforcement action undertaken by the Planning Authority. Mr. Wilson So informed Members that no local objection was received against the previous Application No. A/TM-SKW/42. Mr. So also stated that both the application site and an area to its immediate south were subject to enforcement action.

35. The Chairman stated that unlike the previous temporary car/lorry park (Application No. A/TM-SKW/24) granted for the application site, the barbecue area was unlikely to serve the local villagers only. The current application site was closer to residential dwellings and there was a public comment regarding environmental nuisances. The Committee should be mindful of the cumulative impacts brought about by another

barbecue site. Majority of the Members shared this view.

36. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the development was not in line with the planning intention of the “Village Type Development” zone which was to designate both existing recognised villages and land for village expansion. There was no strong justification in the submission for a departure from such planning intention even on a temporary basis; and
- (b) there was insufficient information in the submission to demonstrate that the development would not have adverse environmental and drainage impacts on the surrounding areas.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/YL-HT/420 Proposed Package Sub-station (Electricity Sub-station)
in “Village Type Development” zone,
Lot 678RP(Part) in DD 125,
Ha Tsuen,
Yuen Long

(RNTPC Paper No. A/YL-HT/420)

Presentation and Question Sessions

37. Mr. P.C. Mok, STP/TMYL, reported that page 7 (paragraph 11.2) had been revised and the replacement page was tabled at the meeting. The revision was to incorporate an approval condition requiring the applicant to provide emergency vehicular access, water supplies for fire-fighting and fire services installations as requested by the Director of Fire Services.

38. Mr. P.C. Mok presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed package sub-station (electricity sub-station);
- (c) departmental comments – no adverse comments from concerned Government departments were received
- (d) no public comments and no local objection were received; and
- (e) the Planning Department's views – Planning Department had no objection to the application for reasons given in paragraph 11.1 of the Paper.

39. Noting that the sub-station only occupied a small portion of the application site, Mr. Francis Ng enquired about the use of the remaining area. Mr. Wilson Y. L. So, DPO/TMYL, referred Members to Drawing A-2 and replied that the area surrounding the proposed sub-station would be landscaped. There was no indication on the use of the remaining area. However, if the applicant intended to make use of the remaining area for other purposes after planning permission was given, a fresh planning application should be submitted.

40. In referring to the species of peripheral planting indicated on Drawing A-2 of the Paper, a Member asked whether they would be effective to screen off the sub-station building. In reply, Mr. Wilson So said that as advised by the Chief Town Planner/ Urban Design and Landscape, Planning Department, in paragraph 9.1.5 of the Paper, the landscape proposal was acceptable but the tree size should not be less than 2.75m high. An approval condition was recommended in paragraph 11.2(b) of the Paper to require the applicant to submit and implement a landscape proposal. The same Member added that some shrubs should be added to enhance the screening effect of the trees.

Deliberation Session

41. The Chairman suggested that a clause should be included to advise the applicant to pay particular attention to the landscape treatment to the lower part of the sub-station. Members agreed.

42. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board. The permission should be valid until 23.9.2009, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of drainage proposals to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the submission and implementation of landscape proposals to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (c) the provision of emergency vehicular access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

43. The Committee also agreed to advise the applicant of the following :

- (a) apply to the District Lands Office/Yuen Long for a Short Term Waiver for the package sub-station on the site;
- (b) note the comments of the Chief Engineer/Development (2), Water Supplies Department (WSD) that the applicant might need to extend his/her inside services to the nearest government water mains for water connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (c) note the comments of Members recorded in paragraph 40 above concerning the landscaping for screening of the lower part of the

sub-station.

[Open Meeting (Presentation and Question Sessions Only)]

(iv) A/YL-KTN/236 Temporary Open Storage of Vehicles and Vehicle Parts
for a Period of 3 Years
in “Village Type Development” zone,
Lot 465BRP(Part) and 466RP(Part) in DD109,
Kam Tin Road,
Kam Tin,
Yuen Long

(RNTPC Paper No. A/YL-KTN/236)

(v) A/YL-KTN/237 Temporary Open Storage of Vehicles and Vehicle Parts
for a Period of 3 Years
in “Village Type Development” zone,
Lot 466RP(Part) in DD 109,
Kam Tin Road,
Kam Tin,
Yuen Long

(RNTPC Paper No. A/YL-KTN/237)

Presentation and Question Sessions

44. The Chairman said that the application sites for Applications No. A/YL-KTN/236 and A/YL-KTN/237 were located in the vicinity to each other along Kam Tin Road. Both of them applied for temporary open storage of vehicles and vehicle parts. In view of the similarities in their site context and the uses under application, the Committee agreed that the two planning applications should be considered together.

[Mr. Tony C.N. Kan left the meeting temporarily at this point.]

45. Mr. P.C. Mok, STP/TMYL, reported that the first line of paragraph 10.1.1 (b) was missed out from the RNTPC Paper for Application No. A/YL-KTN/237. A replacement page was tabled at the meeting.

46. Mr. P.C. Mok presented the applications and covered the following aspects as detailed in the Paper :

- (a) background to the applications;
- (b) the proposed temporary open storage of vehicles and vehicle parts;
- (c) departmental comments – the Environmental Protection Department did not support the application as the environmental nuisances generated by the open storage uses would affect the residential dwellings nearby. The Transport Department (TD) raised concern on the access arrangements.
- (d) no public comments and no local objection were received; and
- (e) the Planning Department’s views – Planning Department did not support the application for the reasons as stated in paragraph 12.2 of the Paper, namely that the development was not in line with the planning intention of the “Village Type Development” zone; it did not comply with the Town Planning Board Guidelines 13C; and the access arrangements were not acceptable to TD from road safety perspective.

Deliberation Session

47. The Chairman remarked that both applications were approved in July 2004 for one year for a second time to provide time for relocation to other suitable location, but no information was submitted to demonstrate that genuine effort had been taken to relocate to other areas.

48. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the development did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in that

residential dwellings which were located to its close proximity would be susceptible to adverse environmental nuisances generated by the development; and

- (b) the continual occupation of the site for temporary open storage use was not in line with the planning intention of the “Village Type Development” zone which was to designate both existing and recognized villages and areas of land considered suitable for village expansion. There was insufficient information in the submission to demonstrate that relocation to alternative sites could not be made.

[Open Meeting (Presentation and Question Sessions Only)]

- (vi) A/YL-KTS/354 Temporary Open Storage of Vehicles and Vehicle Parts
for a Period of 3 Years
in “Agriculture” zone,
Lot 466 and Adjoining Government Land in DD 106,
Kam Sheung Road,
Kam Tin,
Yuen Long

(RNTPC Paper No. A/YL-KTS/354)

Presentation and Question Sessions

49. The Committee noted that the applicant requested on 6.9.2005 for a deferment of the consideration of the application to allow time for submitting further information on the ingress/egress arrangements.

Deliberation Session

50. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional

information from the applicant. The Committee also agreed to advise the applicant that one month was allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Open Meeting (Presentation and Question Sessions Only)]

- (vii) A/YL-KTS/355 Temporary Open Storage of Second-hand Private Cars
for a Period of 3 Years
in “Agriculture” zone,
Lots 425A(Part), 428RP(Part) and 429RP(Part) in DD103,
Ko Po San Tsuen,
Kam Tin,
Yuen Long

(RNTPC Paper No. A/YL-KTS/355)

Presentation and Question Sessions

51. Mr. P.C. Mok, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary open storage of second-hand private cars;
- (c) departmental comments – the Environmental Protection Department raised concerns on the environmental nuisance caused by any potential car-repairing and workshop activity, and other Government departments had no objection to the application.
- (d) no public comments and no local objection were received; and
- (e) the Planning Department’s views – Planning Department had no objection to the application for the reasons as stated in paragraph 12.2 of the Paper, namely that suitable temporary uses could be tolerated as the agricultural

activities in the area had ceased for years; the development was not incompatible with the surrounding areas; and the applicant had submitted landscape and drainage plans in the application. Additional approval condition prohibiting car repairing, paint spraying and workshop activities within the application site was recommended to address the environmental concern.

52. Members had no question on the application.

Deliberation Session

53. The Chairman remarked that the Committee had approved similar applications within the "Agriculture" zone before. The application site was the subject of a previous application and all the approval conditions had been complied with. A Member suggested that the applicant should be reminded to undertake no repairing activities at the site and to submit the application well before the planning permission lapsed. Mr. Wilson Y.L. So, DPO/TMYL, responded that no complaint on repairing activities was received in the last planning permission period and no such activity was spotted during a recent site visit.

[Mr. Tony C.N. Kan returned to the meeting at this point.]

54. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 23.9.2008, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) no car repairing, paint spraying and workshop activities should be carried out within the application site;
- (b) the landscape plantings on the application site should be maintained at all times during the approval period;
- (c) the drainage facilities implemented at the application site should be maintained at all times during the planning approval period;

- (d) if any of the above planning conditions (a), (b) or (c) was not complied with at any time during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (e) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

55. The Committee also agreed to advise the applicant of the following :

- (a) the District Lands Officer/Yuen Long's comments that the uses, locations and dimensions of the existing domestic structures on site deviate from those prescribed in the Modification of Tenancy and a Letter of Approval, his office reserved the right to cancel them and to take lease enforcement action against the breach of lease conditions;
- (b) the Chief Highway Engineer/New Territories West, Highways Department's comments that the applicant should note that the existing vehicular access leading to the application site was not maintained by his office. The applicant might approach other departments such as the District Officer/Yuen Long to clarify the management/maintenance responsibility of the access;
- (c) the Assistant Commissioner of Transport/New Territories, Transport Department's comments that the land status of the road/path/track leading to the site from Kam Tin Road should be checked and the management and maintenance responsibilities of the same road/path/track should be clarified and consulted with relevant authorities;
- (d) the Chief Town Planner/Urban Design and Landscape, Planning Department's comment that the applicant should provide an updated landscape plan for his information; and

- (e) the applicant should undertake the environment mitigation measures as set out in Annex I of the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

[Open Meeting (Presentation and Question Sessions Only)]

- (viii) A/YL-KTS/356 Proposed Public Toilet
(Conversion of Aqua Privy into Flushing Toilet)
in “Village Type Development” zone,
Government Land (near Lot 1581RP in DD 106),
Yuen Kong Tsuen,
Yuen Long

(RNTPC Paper No. A/YL-KTS/356)

Presentation and Question Sessions

56. Mr. P.C. Mok, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed public toilet;
- (c) departmental comments – the Lands Department raised concern that the existing refuse collection point (RCP) would be affected, and other Government departments had no objection to the application.
- (d) no public comments and no local objection were received; and
- (e) the Planning Department’s views – Planning Department had no objection to the application for the reasons as stated in paragraph 11.1 of the Paper. In response to Lands Department’s concern, the applicant advised that a movable RCP would be provided next to the public toilet and a separate planning permission for the RCP would be sought.

57. Members had no question on the application.

Deliberation Session

58. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board and subject to the condition that the submission and implementation of landscape proposals to the satisfaction of the Director of Planning or of the Town Planning Board. The permission should be valid until 23.9.2009, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed.

[Dr. Lily Chiang left the meeting temporarily at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

(ix) A/YL-ST/234-1 Proposed Temporary Public Car Park
for a Period of 3 Years
in “Green Belt” zone,
Lots 377(Part), 378(Part), 379, 380, 381RP, 382-384,
385(Part), 389RP(Part), 390(Part) and 392(Part) in DD 99,
San Tin,
Yuen Long

(RNTPC Paper No. A/YL-ST/234-1)

Presentation and Question Sessions

59. Mr. P.C. Mok, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed extension of time (EOT) for compliance with planning condition regarding the implementation of drainage works;

- (c) departmental comments – the Drainage Services Department advised that the drainage works was still not implemented to his satisfaction, and other Government departments had no adverse comments on the application; and
- (d) the Planning Department's views – Planning Department did not support the application for the reasons as stated in paragraph 6 of the Paper. The compliance period of planning condition (h) had been extended five times from nine months to 23 months up to 5.8.2005. It was considered not appropriate to extend the compliance period of this condition to co-terminate with the planning permission.

60. Questions raised by the Chairman and a Member were :

- (a) whether the planning permission had already expired; and
- (b) clarification was sought on the rationale of submitting an EOT application when the planning permission had already lapsed and whether the applicant had submitted a new planning application for the site.

61. In reply, Mr. Wilson Y. L. So, DPO/TMYL, made the following points :

- (a) the compliance period of planning condition (h) regarding the provision of drainage facilities expired on 5.8.2005. The applicant submitted an application for EOT for one month on 3.8.2005. The Planning Department then proceeded on departmental circulation of the EOT application. Meanwhile, the applicant informed the Drainage Services Department (DSD) that the drainage works had been completed. The DSD subsequently advised on 16.9.2005 that the required drainage works were still not implemented to his satisfaction. The Planning Department considered that further extension of compliance period to co-terminate with the planning permission on 5.9.2005 was not appropriate, and the intention of granting no additional EOT was clearly indicated to the

applicant in the last EOT application. Although the Board had delegated its authority to the Director of Planning to consider an application for compliance with approval conditions as Class B amendments, such application, if considered unacceptable by concerned Government departments, would be submitted to the Committee for consideration. Although the planning permission lapsed on 5.9.2005, it was a valid application as it was submitted before the deadline for compliance with approval condition (h); and

- (b) the applicant had been reminded that the planning permission period would co-terminate with the EOT being applied for. However, the applicant refused to withdraw the application. There was no information on any new application submitted by the applicant.

[Dr. Lily Chiang returned to the meeting at this point.]

Deliberation Session

62. Two Members pointed out that the application should be considered by the Director of Planning under delegated authority of the Board such that it might be decided upon before 5.9.2005. The Chairman responded that according to the Town Planning Board Guidelines No. 36 for Class A and Class B Amendments to Approved Development Proposals, it was pledged to process such application within six weeks. The applicant was aware that the application could not in practice be processed within the remaining four weeks even if the application was considered under delegated authority. Besides, there was departmental objection and the decision on the EOT application must come from the Committee.

63. One Member noted that the applicant had demonstrated efforts in complying with the condition as he had continued to implement the drainage works after the submission of EOT application. Mr. Wilson So responded that the drainage impact assessment required under approval condition (g) was accepted by DSD in September 2004, and since then the applicant had started implementing the drainage works. In referring to Appendix VI of the Paper, Mr. So said that when approving the fifth EOT for approval condition (h) in July 2005, the Board had already indicated to the applicant that no further extension of the compliance

period would be granted as the planning approval would expire on 5.9.2005.

64. A Member commented that the applicant appeared to be insisting on compliance with all the planning approval conditions with a view to maintaining a clean record. However, the application should only be relevant if there was a valid planning permission. Since the temporary public car park was still operating, the Committee should be cautious in giving any retrospective approval.

65. The Chairman said that the Committee might not be in a position to make a decision on the EOT application as the planning permission itself had already lapsed and the application should perhaps be returned to the applicant. A Member concurred with this view and said that the Board's decision of granting no further EOT had already been indicated to the applicant.

66. The Secretary said that the Committee was duty bound to grant or refuse to grant permission applied for. Two Members considered that the issue involved was a matter of technicality. The application was valid at the time of submission. The Committee had justifiable reason to reject the application as sufficient time had been given to the applicant to comply with the approval conditions. Another Member suggested the Committee not to approve the application and at the same time advise the applicant that the planning permission had lapsed. After discussion, Members considered that it would be appropriate to decide on and reject the application as the Committee was merely confirming the Board's earlier decision of granting no further EOT.

67. After further deliberation, the Committee decided to reject the application for extending the time for compliance with planning condition and the reason was that the temporary planning permission was for a period of 24 months. Since 23 months had been allowed for compliance with approval condition (h) on the provision of drainage facilities proposed in the Drainage Impact Assessment, further extension of time for compliance with such condition to co-terminate with the expiry of the planning permission was considered not appropriate.

68. The Committee also agreed to advise the applicant that since he had failed to comply with approval condition (h) by 5.8.2005, the permission for the subject application

had already been revoked on the same date.

69. A Member asked whether a set of TPB Guidelines would be necessary to provide guidance on the consideration of EOT applications in which the planning permission had already expired. Mr. Wilson So responded that according to the Town Planning Board Guidelines No. 34 for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development, an applicant was advised to submit the EOT application no less than six weeks before the expiry of the specified time limit. However, this remained to be an advisory clause and the Planning Department was duty bound to process the application as long as it was submitted before the expiry of compliance period.

[Mr. Alex C.W. Lui, Dr. C.N. Ng and Professor David Dudgeon left the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (x) A/YL-TYST/298 Proposed New Territories Exempted House
(NTEH) (Small House)
in “Residential (Group D)” and
“Village Type Development” zones,
Lot 1551RP in DD 121,
Shan Ha Tsuen,
Tong Yan San Tsuen,
Yuen Long

(RNTPC Paper No. A/YL-TYST/298)

Presentation and Question Sessions

70. The Committee noted that the applicant requested on 2.9.2005 for a deferment of the consideration of the application to allow time for submitting further information.

Deliberation Session

71. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Mr. Alfred Donald Yap left the meeting at this point.]