

TOWN PLANNING BOARD

Minutes of 320th Meeting of the Rural and New Town Planning Committee held at 2:30 p.m. on 3.2.2006

Present

Director of Planning
Mrs. Ava S.Y. Ng

Chairperson

Mr. Michael K.C. Lai

Vice-chairman

Professor K.C. Ho

Mr. Alex C.W. Lui

Mr. Francis Y.T. Lui

Mr. C.K. Wong

Professor Nora F.Y. Tam

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. Simon Hui

Assistant Director/New Territories, Lands Department
Ms. Eugina Fok

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Ms. Carmen K.M. Chan

Mr. David W.M. Chan

Dr. Lily Chiang

Assistant Director (2), Home Affairs Department
Ms. Margaret Hsia

In Attendance

Assistant Director of Planning/Board
Mr. C.T. Ling

Chief Town Planner/Town Planning Board
Miss Fiona S.Y. Lung

Town Planner/Town Planning Board
Mr. Philip K.S. Chang

Agenda Item 1

Confirmation of the Draft Minutes of the 319th RNTPC Meeting held on 13.1.2006

[Open Meeting]

1. The draft minutes of the 319th RNTPC meeting held on 13.1.2006 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

2. There were no matters arising from the last meeting.

[Professor David Dudgeon arrived to join 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. Wilson W.S. Chan, Senior Town Planner/Tuen Mun and Yuen Long (STP/TMYL), were invited to the meeting at this point.]

Agenda Item 3

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/YL/137 Proposed Religious Institution
in “Residential (Group A)” zone,
1/F (Whole), Wing Fu Mansion,
2-6 Fung Yau Street North,
Yuen Long

(RNTPC Paper No. A/YL/137)

Presentation and Question Sessions

3. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed religious institution;
- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) one public comment was received during the public inspection period. The commenter, the Incorporated Owners (IO) of Wing Fu Mansion, was not against the application, but requested that the deadline for submitting public comments be deferred to allow time for the IO to discuss the proposed layout involving the public area of Wing Fu Mansion; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 10.1 of the Paper. Should approval be given, the applicant would be advised to address the concern of the IO. As regards the IO's concern, it was mainly a building management issue which could be separately dealt with between the IO and the applicant. In any event, there was no provision under the Town Planning Ordinance for extending the statutory 3-week public inspection period.

4. Members had no question on the application.

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

Deliberation Session

5. The Chairperson remarked that the proposed religious institution was considered

not incompatible with the surrounding residential developments with non-domestic uses such as churches and educational institutions on the lower floors.

6. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the condition that the provision of fire service installations to the satisfaction of the Director of Fire Services or of the TPB. The permission should be valid until 3.2.2010, 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.

7. The Committee also agreed to advise the applicant to further liaise with the Incorporated Owners of Wing Fu Mansion on the possible use of public area of the building by the proposed church.

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/YL-KTS/360 Renewal of Planning Approval
for Temporary Open Storage of Left-hand Vehicles
for a Period of 3 Years
in “Agriculture” zone,
Lots 460RP, 461RP(Part) and 462BRP(Part) in DD 103,
Kam Tin,
Yuen Long

(RNTPC Paper No. A/YL-KTS/360)

Presentation and Question Sessions

8. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) renewal of planning approval for temporary open storage of left-hand vehicles for a period of 3 years;

- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 12.2 of the Paper.

9. Noting from Plan A-5 of the Paper that the subject site was used for storage of vehicle parts, a Member asked whether the site was being used for vehicle assembly. Mr. Wilson Y.L. So, DPO/TMYL, said that to address the concern, it had been recommended in paragraph 12.3(a) of the Paper that a clause prohibiting repairing and workshop operation should be incorporated into the approval conditions. The planning permission would be revoked if the site was used for other purposes not covered by the application.

[Mr. Francis Y.T. Lui arrived to join the meeting during the deliberation session.]

Deliberation Session

10. A Member remarked that the subject application for renewal of planning approval was for storage of the 'whole' vehicle, not vehicle parts. According to the applicant's submission, the site was currently used for open storage of imported left-hand vehicles for subsequent export to Mainland China. The site photos however revealed that the operation on site was more like a vehicle breaking yard for disassembly of vehicle parts.

11. Mr. Wilson Y.L. So said that the subject application was submitted for renewal of a previous planning approval (under Application No. A/YL-KTS/289) for open storage of left-hand vehicles. As pointed out in paragraph 1.1 of the Paper, there was no planning permission for the open storage of vehicle parts and workshop activities for the application site. The Planning Department had also recognized the discrepancy between the use under application and the actual use on site. In this regard, an appropriate prohibition clause was recommended for inclusion in the approval conditions.

12. The Secretary pointed out that in the previous approval, there was no such clause prohibiting the storage of vehicle parts. Should the Committee decide to approve the current application, the recommended prohibition clause at paragraph 12.3(a) of the Paper could be further strengthened. The Planning Authority would then closely monitor the use of the application site and take enforcement action, if necessary.

13. The Chairperson suggested that the approval condition at paragraph 12.3(a) of the Paper could be revised to prohibit dismantling and assembly activities as well. A separate condition could also be imposed to restrict the storage of vehicles parts.

14. In response to a Member's enquiry, the Chairperson remarked that it was not unreasonable to allow some temporary use of abandoned agricultural lands, but whether the "Agriculture" zoning remained appropriate could be subject to further review.

15. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 3.2.2009, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) no assembling, dismantling, repairing, fixing or maintenance of vehicles or workshop activities should be undertaken on the site;
- (b) no storage of vehicle parts should be allowed on the site;
- (c) the drainage facilities on the application site should be maintained as under Application No.A/YL-KTS/289 at any time during the planning approval period;
- (d) the existing plantings on the application site should be maintained at any time during the planning approval period;
- (e) the submission of an updated tree planting plan within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 3.8.2006;

- (f) if any of the above planning conditions (a), (b), (c) or (d) was not complied with at any time during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (g) if the above planning condition (e) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (h) upon 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.

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

- (a) the permission was only given to the use/development under application. It did not condone any other use/development which currently existed on the site but not covered by the application. The applicant should take immediate action to discontinue such use/development not covered by the permission;
- (b) the District Lands Officer/Yuen Long, Lands Department's comment that should no short term waiver application be received/approved and the irregularities persist on site, his office would consider taking appropriate lease enforcement action against the registered land owners;
- (c) the Assistant Commissioner for Transport/New Territories's comment that the land status of the access road leading to the site from Kam Tin Road should be checked with the lands authority. Besides, the relevant lands and maintenance authorities should be consulted on the management and maintenance responsibilities of the same access road;
- (d) environmental mitigation measures as set out in the "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage

Sites” should be used to minimize any possible environmental nuisances;
and

- (e) the Chief Building Surveyor/New Territories West, Buildings Department’s comment that all unauthorised building works/structures should be removed. All building works were subject to compliance with the Buildings Ordinance. Authorised Person must be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorised structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorised works in the future; and
- (f) the Commissioner of Police (District Commander, Pat Heung Division)’s comment that the security arrangements of the location were considered of paramount importance and should be given due regard by the applicant.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/YL-PH/512 Renewal of Planning Approval
for Temporary Open Storage
of Porcelain Products/Sanitary Utensils
for a Period of 3 Years
in “Agriculture” zone,
Lots 20(Part), 21, 22(Part), 23(Part), 24(Part), 25(Part),
27A(Part), 42(Part) and 43(Part) in DD 108
and Adjoining Government Land, Pat Heung,
Yuen Long

(RNTPC Paper No. A/YL-PH/512)

Presentation and Question Sessions

17. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) renewal of planning approval for temporary open storage of porcelain products/sanitary utensils for a period of 3 years;
- (c) departmental comments – no adverse comments from concerned Government departments were received. The Environmental Protection Department (EPD) advised that no environmental complaint against the site had been received in the past 3 years, but there were a number of sensitive uses near the site, and there was a small repairing area at the northern part of the site;
- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 12.3 of the Paper. Approval conditions on prohibition of workshop activities on site and restriction on operation hours were recommended to address EPD's concern.

18. In response to an enquiry by a Member, Mr. Wilson Y.L. So, DPO/TMYL, said that there was no information as to whether the residential structures within the application site were owned by the applicant. According to EPD, there was no complaint against the subject operation in the past three years. Mr. So also pointed out again that no public comment had been received during the public inspection period of the application.

Deliberation Session

19. Noting that there was an additional built-over area (B.O.A) of about 219m² on the site comparing to the last approved scheme (under Application No. A/YL-PH/423), a Member raised concern on the large site coverage and possible perpetuation of the open storage operation and had reservation on allowing the applicant to further expand the B.O.A. to 5,508m². To tolerate the temporary use for another 3 years might amount to allowing permanent open storage use in the application area.

20. Mr. Wilson Y.L. So explained that the criteria set out in Town Planning Board (TPB) Guidelines No. 13D were followed in assessing the subject application. He pointed out that the application site fell within the Category 3 areas under the said Guidelines. The application complied with the relevant assessment criteria in that there were previous planning approvals and the approval conditions had been complied with to the satisfaction of the relevant Government departments. Besides, there were neither adverse comments from concerned Government departments on nor local objections to the current application.

21. The Secretary added that the preparation of the TPB Guidelines No. 13D was in recognition of the proliferation of open storage uses in the rural areas, which were also required to serve our economy. The purpose of the Guidelines was to contain the problem while channelling these uses to appropriate places. While they were against the long term planning intention, sympathetic consideration would be given to those temporary uses that met the assessment criteria of the said Guidelines, and could be tolerated for the time being.

22. A Member said that construction of the additional B.O.A. was without prior permission. The approval of this extended area might encourage the applicant to further expand the covered storage area. Mr. Wilson Y.L. So explained that the difference between the current application and the previous one was that two new structures with a covered storage area of 219m² had been erected within the site resulting in a total covered storage area of 5508m². The calculation had been confirmed by the Applicant in his letter of 6.1.2006, which was attached at Appendix 1b of the Paper. According to the TPB Guidelines 13D, if 50% of the site was uncovered and used for storage or repair etc., it would generally be regarded as open storage use. The existing total B.O.A. of about 7393m² mentioned by the District Lands Office (DLO) in paragraph 10.1.1 of the Paper had included the area for internal driveway in the calculation. To address the concern of Members about the possible further expansion of the covered area, the Chairperson said that a restriction on the size of the B.O.A. could be specified in the approval conditions.

23. Referring to the discrepancy in figures of the B.O.A. between DLO and the Applicant, Ms. Eugina Fok clarified that according to the current policy of the Lands Department, any B.O.A. erected on land were included in the calculation, regardless of materials used and the usage of the B.O.A..

24. A Member remarked that the B.O.A should not in itself be of the main concern. The question should be whether the environment of the open storage use would be improved with or without the cover. Mr. Wilson Y.L. So said that the cover might help minimise potential visual/environmental impact. However, if Members were concerned about the extent of the covered area, a restriction on the size of B.O.A. as suggested by the Chairperson could be incorporated into the approval conditions.

25. The Chairperson remarked that open storage was intended to provide storage space that normally could not be accommodated in conventional godown. The use of a cover might represent an environmental improvement for certain open storage operation. Members in general supported the application but considered that a restriction on the covered area should be imposed to guard against further expansion of the B.O.A..

26. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 3.2.2009, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) the total covered storage area should not exceed 5508.2m²;
- (b) the operation hours were restricted from 7 a.m. to 11 p.m. at the application site during the planning approval period;
- (c) no operation was allowed on any Sundays or public holidays during the planning approval period;
- (d) no workshop activities, vehicle repairing and maintenance activities should be carried out at the application site;
- (e) the drainage facilities implemented on site under Application No. A/YL-PH/423 should be maintained at all times during the approval period;
- (f) the submission of landscape proposals including the replacement of dead trees within 6 months from the date of planning approval to the satisfaction

of the Director of Planning or of the Town Planning Board by 3.8.2006;

- (g) in relation to (f) above, the implementation of the accepted landscape proposals including the replacement of dead trees within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 3.11.2006;
- (h) If any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (i) if any of the above planning conditions (f) or (g) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (j) 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.

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

- (a) the permission was only given to the use/development under application. It did not condone any other use/development which currently existed on the site but not covered by the application. The applicant should take immediate action to discontinue such use/development not covered by the permission;
- (b) the District Lands Officer/Yuen Long, Lands Department's comment that the applicant was required to apply for regularization of the excess built-over-area found on the lot;
- (c) the Assistant Commissioner for Transport/New Territories, Transport Department's comment that the land status, management and maintenance responsibilities of the track leading to the site should be checked and

clarified;

- (d) the Chief Engineer/Development (2), Water Supplies Department's comment that no structure should be erected over the waterworks reserve and such area should not be used for storage purposes;
- (e) the Director of Environmental Protection's comment that the Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites should be observed; and
- (f) the Head of Geotechnical Engineering Office, Civil Engineering and Development Department's comment that no habitable structure such as site office should be located within the north-western part of the site. Otherwise, a Natural Terrain Hazard Study (NTHS) was necessary.

[Open Meeting (Presentation and Question Sessions Only)]

- (iv) A/YL-PH/513 Temporary Sale of Second-hand Private Vehicles for a Period of 2 Years in "Village Type Development" zone, Lots 308(Part), 309(Part), 310A(Part) and 310B1(Part) in DD 111, Pat Heung, Yuen Long

(RNTPC Paper No. A/YL-PH/513)

Presentation and Question Sessions

28. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) temporary sale of second-hand private vehicles for a period of 2 years;

- (c) departmental comments –the Environmental Protection Department did not support the application as there were sensitive uses in close proximity of the site. The Chief Town Planner/Urban Design and Landscape, Planning Department, advised that all the natural vegetation within the site had been cleared recently, and raised concern on the potential impact on the landscape value of the surrounding area;
- (d) two public comments were received during the public inspection period, both objecting to the application mainly on the ground of close proximity to the residential settlements and concern on environmental nuisances such as noise and dust; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application for reasons given in paragraph 11.3 of the Paper, highlighting that there were residential structure nearby and the closest one was located just 20m away from the application site. The site fell within Category 4 areas under the Town Planning Board (TPB) Guidelines No. 13D, and there were no exceptional circumstances to justify sympathetic consideration of the case.

29. Members had no question on the application.

Deliberation Session

30. The Chairperson remarked that the proposed development was very close to residential dwellings, and was not in line with the TPB Guidelines No. 13D.

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

- (a) the proposed development was not in line with the planning intention of the “Village Type Development” zone on the Outline Zoning Plan, which was 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. There was no strong justification in the submission for a departure from such planning intention;

- (b) the proposed development did not comply with the Town Planning Board Guidelines No. 13D for Application for Open Storage and Port Back-up Uses in that there was no exceptional circumstances to merit approval and the development was not compatible with the residential dwellings nearby; and
- (c) there was insufficient information in the submission to demonstrate that the proposed development would not have adverse environmental, drainage and landscape impacts on the surrounding areas.

[Open Meeting (Presentation and Question Sessions Only)]

- (v) A/YL-ST/297 Temporary Sales and Display Centre
for Used Light Vehicles, Tractors and Tractor Parts
for a Period of 12 Months
in “Other Specified Uses” annotated
“Comprehensive Development to include
Wetland Restoration Area” zone,
Lot 769(Part) in DD 99 and Adjoining Government Land,
San Tin,
Yuen Long

(RNTPC Paper No. A/YL-ST/297)

Presentation and Question Sessions

32. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) temporary sales and display centre for used light vehicles, tractors and tractor parts for a period of 12 months;
- (c) departmental comments – the Environmental Protection Department expressed concern on potential pollution of soil and water body of the environs arising from the deposition of damaged vehicles and/or used vehicle parts, and did not support the application. The Agriculture, Fisheries and Conservation Department had ecological concern on the continual use of the site for open storage purpose and considered that such use should be discouraged in view of the planning intention of the “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) zone. The Highways Department also commented that the existing site run-in was not constructed up to Government standards;
- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application for reasons given in paragraph 12.2 of the Paper, highlighting that the development did not comply with the relevant Town Planning Board Guidelines No. 12B and 13D on application for developments with Deep Bay Area and application for open storage and port back-up uses respectively. The site fell within Category 4 areas. A 12-month approval had already been granted to the same applicant to allow time for relocation and the planning approval (No. A/Y1-ST/278) had already been revoked.

33. Members had no question on the application.

Deliberation Session

34. The Chairperson remarked that the site was located within the Wetland Buffer Area and the potential ecological and environmental impacts were a valid concern.

35. 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 “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” zone which was to encourage the phasing out of sporadic open storage and port back-up uses, and to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds;
- (b) the development did not comply with the revised Town Planning Board Guidelines No. 12B (TPB PG-No. 12B) for Application for Developments within Deep Bay Area in that there was no information in the submission to demonstrate that the development would not have a negative off-site disturbance impact on the ecological integrity and ecological value of the fish ponds within the Wetland Conservation Area in the Deep Bay area; and
- (c) the development was not in line with the TPB PG-No. 13D for Application for Open Storage and Port Back-up Uses in that there were adverse departmental comments and there was insufficient information in the submission to demonstrate that the development would not have adverse environmental impacts on the surrounding areas.

[Open Meeting (Presentation and Question Sessions Only)]

- (vi) A/YL-ST/298 Temporary Container Tractor/Trailer Park and Open Storage of Building Materials for a Period of 12 Months in “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” zone, Lot 769(Part) in DD 99, San Tin, Yuen Long

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

Presentation and Question Sessions

36. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) temporary container tractor/trailer park and open storage of building materials for a period of 12 months;
- (c) departmental comments – the Environmental Protection Department raised concerns on water quality issues and noise impact to the nearby sensitive receivers and did not support the application. The Agriculture, Fisheries and Conservation Department had ecological concern on the continual use of the site for open storage purpose and considered such use should be discouraged in view of the planning intention of the “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) zone. The Transport Department raised strong objection to the current application as the applicant had failed to submit a Traffic Impact Assessment as required under the previously approved application (No. A/YL-ST/273);
- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons given in paragraph 12.2 of the Paper, highlighting that the development did not comply with the relevant Town Planning Board Guidelines No. 12B and 13D on application for developments with Deep Bay Area and application for open storage and port back-up uses respectively. The site fell within Category 4 areas. A 12-month approval had already been granted to the same applicant to allow time for relocation and the planning approval (No. A/Y1-ST/273) had already been revoked.

37. Members had no question on the application.

Deliberation Session

38. The Chairperson remarked that the site was located within the Wetland Buffer Area and the potential ecological and environmental impacts were a valid concern.

39. 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 “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” zone which was to encourage the phasing out of sporadic open storage and port back-up uses, and to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds;
- (b) the development did not comply with the revised Town Planning Board Guidelines No. 12B (TPB PG-No. 12B) for Application for Developments within Deep Bay Area in that there was no information in the submission to demonstrate that the development would not have a negative off-site disturbance impact on the ecological integrity and ecological value of the fish ponds within the Wetland Conservation Area in the Deep Bay area; and
- (c) the development was not in line with the TPB PG-No. 13D for Application for Open Storage and Port Back-up Uses in that there were adverse departmental comments and there was insufficient information in the submission to demonstrate that the development would not have adverse traffic and environmental impacts on the surrounding areas.

[Open Meeting (Presentation and Question Sessions Only)]

- (vii) A/YL-TT/192 Temporary Restaurant for a Period of 3 Years
in “Village Type Development” zone,
Lots 1256(Part), 1258(Part), 1259RP(Part)
and 1299RP in DD 117 and Adjoining Government Land,
Tai Tong Shan Road,
Tai Tong,
Yuen Long

(RNTPC Paper No. A/YL-TT/192)

Presentation and Question Sessions

40. Referring to paragraph 12.3(c) of the Paper, Mr. Wilson W.S. Chan, STP/TMYL, said that the ‘Commissioner for Transport’ should be replaced by ‘Director of Highways’. Mr. Chan then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary restaurant for a period of 3 years;
- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons given in paragraph 12.1 of the Paper, highlighting that the development generally complied with the Town Planning Board Guidelines No. 15A for Applications for Eating Pace within “Village Type Development” Zone in Rural Areas. Should the subject application be approved, shorter compliance periods were recommended so as to monitor the fulfilment of the approval conditions.

41. Noting from paragraph 10.1.1 of the Paper that the application site involved unauthorized occupation of Government land, a Member asked whether it was appropriate to approve the application.

42. Referring to paragraphs 10.1.1 and 12.4(b) of the Paper, Ms. Eugina Fok said that no approval had been given to the applicant for the use of the Government land in question. The applicant had not accepted the offer for a Short Term Tenancy (STT) for regularisation of the unauthorized occupation on site, and the District Lands Officer (DLO) of Lands Department would take enforcement action should the applicant continue the unauthorised occupation of Government land. She said that should the application be approved, the advisory clause in paragraph 12.4(b) should be strengthened.

43. In response to a Member's query on whether the Committee could approve an application with unauthorised occupation of Government land, Mr. Wilson Y.L. So remarked that the concern of the Committee would generally be more on planning considerations. The Town Planning Board or its Committees had previously approved cases involving Government land, and in the approval letters to the applicants, it was clearly stated that such permission did not mean that any other government approval, which might be needed in connection with the development, would be given. The Secretary added that in the subject application, the applicant could further liaise with DLO and apply for STT to regularise the unauthorised occupation of Government land.

Deliberation Session

44. The Chairperson remarked that should the application be approved, there were still means of control on unauthorised occupation of Government land. The advisory clause at paragraph 12.4(b) should however be strengthened to address DLO's concern.

45. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 3.2.2009, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) the landscape planting on the site should be maintained at all time during the planning approval period;

- (b) the drainage facilities on the site should be maintained at all time during the planning approval period;
- (c) the provision of vehicular access within 3 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 3.5.2006;
- (d) the provision of emergency vehicular access, water supplies for fire fighting and fire service installations within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.5.2006;
- (e) if any of the above planning conditions (a) or (b) was not complied with at any time during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (f) if any of the above planning conditions (c) or (d) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) shorter compliance periods so as to monitor the fulfilment of the approval conditions;
- (b) the District Lands Officer/Yuen Long, Lands Department's comments that he reserved his right to take appropriate enforcement action against any breach of conditions of the short term waivers granted on the site. Besides, no approval had been given to the applicant for exclusive use on the pieces of Government Land adjoining Lots 1258, 1259 RP and 1299 RP. Should no short term tenancy application be received/approved, land control action would be taken by his office against the irregularities found;

- (c) the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD)'s comments that the proposed location of vehicular access to the site and the width of the run-in/out should be approved by Transport Department. Upon approval, the applicant should construct the run-in/out according to the latest version of HyD's Standard Drawings Nos. H1113 and H1114, or H5115 and H5116, whichever set was applicable;
- (d) the Director of Fire Services' comments that detailed fire safety requirements would be formulated upon receipt of the formal application;
- (e) the Director of Environmental Protection's comments that the applicant/operator was required to follow the requirements under relevant environmental pollution control ordinances;
- (f) the Chief Building Surveyor/New Territories West, Buildings Department's comments that the unauthorized structures on site were liable to enforcement action under section 24 of the Buildings Ordinance. Container used for storage on the site was also considered as temporary building and was subject to control under Building (Planning) Regulations VII. The granting of this planning approval should not be construed as condoning to any structure existing on the site under the Buildings Ordinance and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure for storage and office, for approval under the Buildings Ordinance was required. If the site was not abutting and accessible from a street having a width of not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations 19(3) at building plan submission stage; and
- (g) the Director of Food and Environmental Hygiene's comments that a separate restaurant licence issued by his department after consultation and favourable comments from relevant government departments and

compliance of relevant restaurant licensing requirements and condition was required if food business was carried out at the location.

[Open Meeting (Presentation and Question Sessions Only)]

- (viii) A/YL-TYST/305 Temporary Staff Canteen and Ancillary Storage of Dry Food and Drinks for a Period of 3 Years in “Government, Institution or Community” and “Residential (Group B)1” zones, Lots 2520RP(Part) and 2521(Part) in DD 124, Hung Shun Road, Hung Shui Kiu, Yuen Long
-
- (RNTPC Paper No. A/YL-TYST/305)

Presentation and Question Sessions

47. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application, highlighting that it was the portion of the subject site under “Residential (Group B)1” zoning that required planning permission for the proposed use;
- (b) temporary staff canteen and ancillary storage of dry food and drinks for a period of 3 years;
- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) one public comment was received during the public inspection period. The comment was submitted by the Owners’ Corporation (OC) of Symphony Garden, a nearby residential estate, objecting to the application mainly on the grounds, that the canteen was operated as a restaurant, opening to the

public and with long operation hours. The OC was concerned about the close proximity of the restaurant to Symphony Garden, as well as fire safety risk and environmental nuisance generated by the restaurant; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 11.1 of the Paper. The concern of the OC could be addressed by imposing approval conditions as recommended in paragraphs 11.3(a) and (b) of the Paper, which included restricting the operation hours from 7 a.m. to 11 p.m., and prohibiting operation on Sundays or public holidays, and by incorporating an advisory clause in paragraph 11.4(b) relating to effluent discharge, oily fume and cooking odour emissions.

48. Members had the following questions:

- (a) whether the recommended hours of operation until 11 p.m. in the approval conditions was rather late for a staff canteen. Consideration might be given to restricting the hours of operation to 9 p.m.; and
- (b) whether the comments made by the local residents OC in relation to the operation of the canteen were justified and whether the canteen was really operating as a restaurant.

49. Mr. Wilson Y.L. So, DPO/TMYL, made the following points:

- (a) the recommended restriction on the operation hours of the canteen from 7 a.m. to 11 p.m. was based on the general control on operation hours adopted for open storage uses. If Members were concerned about the impact of the possible environmental nuisance on the nearby residents, more stringent restriction on the operation hours, e.g. prohibiting operation from 7 p.m. to 7 a.m. might be considered; and
- (b) the public comments attached at Appendix III of the Paper was submitted by the OC of the Symphony Gardens and it should reflect the genuine concern

of the local residents that the canteen was operated more like a conventional restaurant. In recognition of their concern, it had been recommended in the Paper that there should be restriction on the operation hours. In assessing the application, due consideration had been given to addressing the concern of the local residents and the need for canteen facilities in the area. The fact that the site was subject to two previous planning approvals and the applicant had complied with all the approval conditions had also been taken into account.

Deliberation Session

50. The views of Members were summarised as follows:

- (a) referring to paragraph 9.1.8 of the Paper on the Food and Environmental Hygiene Department (FEHD)'s advice that a separate restaurant license might be required if a restaurant was to be operated on site and noting the local concerns, a Member supported limiting the operation hours of the canteen. Members generally shared the view that more stringent control on the operation hours should be imposed;
- (b) referring to the photos on Plan A-4 of the Paper, a Member observed that some students were using the so-called staff canteen, while some Members noted that the operation called itself a restaurant as shown on the signboard at the premises' front. They doubted if the canteen was restricted to staff only, and considered it appeared more like a restaurant;
- (c) noting that the canteen was meant to serve the dining needs of the staff of the adjoining vehicle park management company, a Member questioned whether there was sufficient number of staff patronizing the canteen and justify its continual operation; and
- (d) a Member was of the view that the applicant should be required to submit an application for restaurant if the intention was to use the site as a

conventional restaurant. Another Member suggested to add an advisory clause to remind the applicant to apply for a restaurant licence if a restaurant was in actual fact operated on site. Some Members however remarked that sometime it might be difficult to distinguish a restaurant from a canteen, and the canteen might not be financially viable if it was restricted to staff only.

51. Referring to a large piece of vacant land to the east of the application site shown on Plan A-2 of the Paper, Mr. Wilson Y.L. So pointed out that the site was used as a vehicle park when the staff canteen application (No. A/YL-TYST/191) was approved by the Committee in February 2003. The applicant claimed that the canteen would provide dining facility to the workers in the nearby vehicle parks. Referring to Plan A-1, Mr. So pointed out that the application site was also close to Tan Kwai Tsuen Road where there were still a number of existing industrial operations such as vehicle parks, open storage yards, workshops and warehouse. The proposed canteen would also help address the dining need of workers of these industrial operations. He said that, referring to FEHD's advice in a previous case, it appeared that the main difference between a restaurant and a canteen was whether it would be open to the public.

52. In response to a Member's enquiry, the Secretary said that the Symphony Garden already existed when the first application (No. A/YL-TYST/120) for a temporary refreshment kiosk at the subject site was approved in November 2000. There was no objection raised by the local residents at that time, but an objection from the Principal of a nearby school was received expressing concern on greasy exhaust and on law and order. Should the premises be run as a restaurant, a separate planning application would be required.

53. The Chairperson noted that members were in general sympathetic to the application, but considered that more stringent restriction should be imposed on the operation hours of the canteen in view of the concerns of the nearby residents, and no operation would be allowed on Sundays and public holidays. As to the licensing requirement, an advisory clause would be included and it would be up to the FEHD to take the appropriate follow-up action.

54. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 3.2.2009, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) no operation between 9 p.m. and 7 a.m. should be carried out at the application site at any time during the planning approval period;
- (b) no operation was allowed on any Sundays or public holidays during the planning approval period;
- (c) the landscape planting on the application site should be maintained at any time during the planning approval period;
- (d) the drainage facilities on the application site should be maintained at any time during the planning approval period;
- (e) if any of the above planning conditions (a), (b), (c) or (d) was not complied with at any time during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (f) 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 permission was only given to the use/development under application (i.e. temporary staff canteen and ancillary storage of dry food and drinks). It did not condone any other use/development existing on the site that was not covered by the application. Should the premises be run as a restaurant, a separate planning application would be required;
- (b) the District Lands Officer/Yuen Long, Lands Department's comments that no structure was allowed to be erected without prior approval from his office. Upon this planning approval, his office would regularize the unauthorised structure on site. Otherwise, his office would consider

appropriate enforcement action against the occupier/owner;

- (c) the Director of Environmental Protection's comments that the applicant should observe the requirements of the Water Pollution Control Ordinance regarding the effluent discharge from the development. The owner or operator of the premises should also note that oily fume and cooking odour emissions from cooking processes were one of the air pollutants under the control of the Air Pollution Control Ordinance. It was necessary for them to take appropriate measures to minimise the emissions and prevent causing any odour noticeable to any sensitive receivers in the vicinity or creating other forms of pollution;
- (d) the Chief Building Surveyor/New Territories West, Buildings Department's comments that unauthorised structures on site were liable to enforcement action under section 24 of the Buildings Ordinance (BO). The granting of this planning approval should not be construed as condoning to any structure existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Any proposed new works would be considered as temporary buildings subject to control under Building (Planning) Regulations (B(P)R) Pt. VII. Formal submission of any proposed new works including any temporary structure for approval under the BO was required. If the site did not abut on or was not accessible from a street having a width of not less than 4.5m, the development intensity should be determined by the Building Authority under B(P)R 19(3) at the building plan submission stage;
- (e) the Director of Fire Services' comments that the staff canteen was restricted to staff only and not open to public, otherwise, a formal application for a licence from the Food and Environmental Hygiene Department was required and detailed fire safety requirements would be formulated upon the receipt of referral from the licensing authority. Should the food premises be opened to public, justification should be provided by the operator to the Buildings Department that the structure was not a sub-standard structure;

- (f) the Secretary for Education and Manpower's comments that the applicant should at his/her own expense and at all times provide suitable access to the "Government, Institution or Community" portion of the application site for the works agent of his Bureau to carry out ground investigation works;
- (g) the Director of Food and Environmental Hygiene's comments that a separate restaurant licence issued by his department after consultation and favourable comments from relevant government departments and compliance of relevant restaurant licensing requirements and condition was required if restaurant use was carried out at the site. According to Section 4 of Food Business Regulation under Public Health and Municipal Services Ordinance, Cap.132 for the interpretation of food business, canteen in work place for the use exclusively of the persons employed in the work place was exempted from any food licence granted by his Department. Otherwise, a food licence granted by his Department should be obtained by the proprietor. Moreover, the proprietor should take up the management responsibility and prevent any nuisance arising from the premises; and
- (h) to submit the updated landscape proposal for record.

Agenda Item 4

Section 16A Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-ST/279-3 Application for Extension of Time for Compliance
with Planning Conditions (f), (g) and (h)
under Application No. A/YL-ST/279,
Temporary Public Vehicle Park (excluding Container Vehicles)
for a Period of 3 Years
in “Village Type Development” zone,
Lots 3071, 3072, 3073, 3076 and 3077 in DD 102
and Adjoining Government Land,
San Tin,
Yuen Long

(RNTPC Paper No. A/YL-ST/279-3)

Presentation and Question Sessions

56. Mr. Wilson W.S. Chan, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) extension of time (EOT) for compliance with planning conditions (f), (g) and (h) under Application No. A/YL-ST/279. The EOT for condition (f) regarding submission of drainage proposal was not required as the Drainage Services Department had subsequently confirmed compliance of this condition on 6.1.2006 by the applicant;

- (c) departmental comments – the Environmental Protection Department (EPD) considered that approval of the EOT with respect to condition (h) on provision of hard-paving, perimeter ditches with oil interceptors on the site up to 18.2.2006, i.e. the expiry date of the planning permission, would defeat the purpose of imposing the condition. EPD considered the applicant

had not demonstrated effort to comply with this condition and did not support the EOT application; and

- (d) the Planning Department (PlanD)'s views – PlanD did not support the application for reasons given in paragraph 6(i) of the Paper, highlighting that the EOT application was submitted on 16.12.2006, only two days prior to lapsing the compliance period allowed for conditions (g) and (h). A recent site visit on 26.1.2006 revealed that the approval condition (h) had not been complied with as construction of an oil interceptor was still underway. As 10 months had been allowed for compliance with the approval conditions (g) and (h), and in granting the approval of the last EOT application on 25.11.2005, the applicant had been informed that no further extension of the compliance period would be given as the validity of the planning approval would lapse on 18.2.2006. Due to the applicant's failure to comply with conditions (g) and (h), the planning approval had ceased to have effect on 18.12.2005 and had been revoked on the same date. According to the latest legal advice, the Board could no longer consider the s16A application if the planning permission no longer existed at the time of consideration.

57. In response to the Chairperson's request, Mr. Wilson Y.L. So, DPO/TMYL, explained further that the Town Planning Board Guidelines No. 34 had clearly stated that the applicant should submit an application to the Board no less than 6 weeks before the expiry of the time limits so as to allow sufficient time for processing and consultation with concerned Government departments. If the application was submitted less than six weeks before the expiry of the time limits, the Board had the discretion to decide whether the processing of the application should be continued, taking into account all relevant factors. However, the Board could not consider an application for EOT if the relevant time limits specified in the planning permission had already expired at the time of consideration as it was not possible to renew a permission which no longer existed or had expired. If a planning permission had been revoked due to failure of compliance with an approval condition by a specified time limit, the permission no longer existed.

58. Members had no question on the application.

Deliberation Session

59. The Secretary said that the issue of co-termination (i.e. extension of time period for compliance with approval condition to co-terminate with the expiry of planning permission) was discussed previously by the Board. Legal advice was sought, first on issues related to co-termination and then, on request of the Committee, on processing of applications for extension of time for compliance with condition where the permission had already expired at the time of consideration. The latest legal advice was that if a planning permission had been revoked due to non-compliance of conditions by a specified time limit, the permission no longer existed. Hence the Board could not consider an application for extension of time for compliance of conditions if the time limit for compliance with the conditions had already expired at the time of consideration by the Board. A paper setting out the legal advice and the proposals for handling future EOT applications would be submitted to the Board for consideration at its next meeting.

60. The Chairperson remarked that it would be appropriate for the Committee to follow the latest legal advice.

61. After deliberation, the Committee agreed that the application could not be considered for the reason that since the applicant had failed to comply with approval conditions (g) and (h) by 18.12.2005, the planning approval for the subject application had ceased to have effect and had on the same date been revoked. The Town Planning Board could no longer consider the s.16A application as the planning permission no longer existed at the time of consideration.

62. The Committee also agreed to advise the applicant that since he had failed to comply with approval conditions (g) and (h) by 18.12.2005, the planning permission for the subject application had already been revoked on the same date.

[The Chairperson thanked Mr. Wilson Y.L. So, DPO/TMYL, and Mr. Wilson W.S. Chan, STP/TMYL, for their attendance to answer Members' enquiries. Messrs. So and Chan left the meeting at this point.]

[Dr. C.N. Ng and Mr. Alfred Donald Yap left the meeting temporarily at this point.]

Sai Kung and Sha Tin District

[Mr. Michael C.F. Chan, District Planning Officer/Sai Kung and Sha Tin (DPO/SK&ST), and Mr. Kevin S.W. Chan, Senior Town Planner/Sai Kung and Sha Tin (STP/SK&ST), were invited to the meeting at this point.]

Agenda Item 5

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/TKO/1 Application for Amendment to
Approved Tseung Kwan O Outline Zoning Plan No. S/TKO/15
for “Comprehensive Development Area” zone,
Lot 368 and 371 in DD 224 and Adjoining Government Land,
Ying Yip Road,
Area 92,
Tseung Kwan O

(RNTPC Paper No. Y/TKO/1)

Presentation and Question Sessions

63. Mr. Kevin S.W. Chan, STP/SK&ST, said that the applicant had submitted a request for deferment of consideration of the application in order to allow sufficient time to address concerns raised by various Government departments. Members had no question on the application.

Deliberation Session

64. 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.

local objection was received from the District Office; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 10.1 of the Paper.

66. In response to a Member's enquiry, Mr. Michael C.F. Chan, DPO/SK&ST, said that there was a planned sewerage network for Sai Kung which would cover the area where the application site was located. Although the application site was currently not covered by any existing stormwater or sewerage connection, septic tank could be provided as an alternative for the proposed house development. The Chairperson added that it was not uncommon for village type development to rely on septic tanks when sewerage connection was not yet available.

Deliberation Session

67. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the condition that the provision of water supplies for fire fighting and fire services installations to the satisfaction of the Director of Fire Services or of the TPB. The permission should be valid until 3.2.2010, 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.

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/SK-HC/125 Proposed Two New Territories Exempted House (NTEHs) (Small Houses) in "Agriculture" zone, Lots 611A, 611B and 618A in DD 244, Ho Chung, Sai Kung
-
- (RNTPC Paper No. A/SK-HC/125)

Presentation and Question Sessions

68. Mr. Kevin S.W. Chan, STP/SK&ST, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed two New Territories Exempted Houses (NTEHs) (Small Houses);
- (c) departmental comments – no adverse departmental comments from concerned Government departments were received except that the Agriculture, Fisheries and Conservation Department did not favour the application in consideration of the loss of agricultural land;
- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 11.1 of the Paper. The loss of agricultural land was considered insignificant as the application site and its surrounding area were not under active cultivation and the application site was only 263m², which was only about 0.15% of the “Agriculture” (“AGR”) zone.

69. Members had no question on the application.

Deliberation Session

70. The Chairperson 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 fell marginally outside the “Village Type Development” (“V”) zone, but completely within the village ‘environs’, and there was insufficient land in the “V” zone to satisfy the Small House demand. The intrusion into the

“AGR” zone was just minor.

71. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the condition that the submission of archaeological survey before the commencement of any construction works and rescue excavation should be undertaken should archaeological remains be found to the satisfaction of the Director of Leisure and Cultural Services or of the TPB. The permission should be valid until 3.2.2010, 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.

72. The Committee also agreed to advise the applicant that the applicant might need to extend the inside services to the nearest government water mains for connection and should resolve any land matter associated with the provision of water supply. The applicants should also be responsible for the construction, operation and maintenance of the inside services within the private lots.

[The Chairperson thanked Mr. Michael C.F. Chan, DPO/SK&ST, and Mr. Kevin S.W. Chan, STP/SK&ST, for their attendance to answer Members' enquiries. Messrs. 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 7

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/NE-KTS/225 Temporary Godown Uses with Ancillary Office
for a Period of 3 Years
in “Recreation” zone,
Lots 1624A-1624I, 1624RP, 1626, 1628, 1629
and 1631-1637 in DD 100
and Adjoining Government Land,
Ying Pun,
Kwu Tung South
(RNTPC Paper No. A/NE-KTS/225)

Presentation and Question Sessions

73. 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) temporary godown uses with ancillary office for a period of three years;
- (c) departmental comments – no adverse comments from concerned Government departments were received. Transport Department (TD) however advised that use of heavy goods vehicles for transportation of goods to/from the application site was not allowed, and the applicant should be required to formulate and implement improvement measures to the

access road and associated footpath;

- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 11.1 of the Paper, highlighting that the application site was provided with boundary hoarding, and the material handling operation would be conducted within an enclosed area, which would help minimize any potential nuisances to the nearby residents. The TD's concern could be addressed in the approval conditions.

74. In response to a Member's enquiry, Mr. W.K. Hui said that the prohibition of the use of heavy goods vehicles (including container vehicles) for transportation of goods would not render the proposed godown inoperable. Only that the applicant might find it less convenient in his operation.

Deliberation Session

75. The Chairperson remarked that the proposed temporary godown uses was not incompatible with the surrounding uses which were mainly workshops and open storage yards. The potential environmental impact arising from the proposed use would likely be less significant than the previous use on site, i.e., a paper factory.

76. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 3.2.2009, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) no use of heavy goods vehicles including container vehicles for transportation of goods to/from the application site at all times during the approval period;
- (b) the submission of improvement measures to the access road and associated footpath within 6 months from the date of planning approval to the

satisfaction of the Commissioner for Transport or of the Town Planning Board by 3.8.2006;

- (c) in relation to (b) above, the implementation of improvement measures to the access road and associated footpath within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 3.11.2006;
- (d) the submission of drainage proposals 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 3.8.2006;
- (e) in relation to (d) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 3.11.2006;
- (f) the submission of landscaping proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 3.8.2006;
- (g) in relation to (f) above, the implementation of landscaping proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 3.11.2006;
- (h) the submission of emergency vehicular access, water supplies for fire fighting and fire services installations 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 3.8.2006;
- (i) in relation to (h) above, the provision of emergency vehicular access, water supply for fire fighting and fire services installations within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.11.2006;

- (j) if the above condition (a) 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
- (k) if any of the above planning conditions (b), (c), (d), (e), (f), (g), (h) or (i) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) to bear the cost of any necessary diversion of water works affected by the development as required by the Water Supplies Department;
- (b) to apply to the Lands Department for a Short Term Waiver and a Short Term Tenancy for the development, and
- (c) relevant mitigation measures specified in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' published by the Environmental Protection Department should be adopted to minimize any possible environmental impacts.

[Mr. Alex C.W. Lui, Professor Nora F.Y. Tam and Professor Peter R. Hills left the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/NE-LYT/317 Temporary Open Storage for Plastic Tube and Construction Article for a Period of 3 Years in "Agriculture" zone, Lot 1511RP(Part) in DD 83, near Wing Ning Wai, Fanling

(RNTPC Paper No. A/NE-LYT/317)

Presentation and Question Sessions

78. 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) temporary open storage of plastic tube and construction articles for a period of 3 years;
- (c) departmental comments – the Environmental Protection Department did not support the application in consideration of the environmental nuisance to the sensitive uses in the vicinity, while the Transport Department raised concern on the substandard access road;
- (d) no public comment was received during the public inspection period, but there was a local objection received from the District Office, raising concern on flooding and hygiene grounds; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for reasons given in paragraph 12.2 of the Paper, highlighting that the proposed development did not comply with Town Planning Board (TPB) Guidelines No.13D. The application site fell within Category 3 area. There was no previous planning approval for similar type of open storage granted to the application site, and there were concerns raised by both the Government departments and the local residents.

79. Members had no question on the application.

Deliberation Session

80. The Chairperson summed up that the application site was close to domestic structures, and the proposed development did not comply with the TPB Guidelines No. 13D.

81. After deliberation, the Committee decided to reject the application and the reason was that the development under application did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that no previous planning approval for open storage use had been given to the application site and there was no technical assessments/proposals submitted to demonstrate that the development would not generate adverse traffic and environmental impacts on the surrounding areas.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/TP/364 Proposed House (New Territories Exempted House)
(NTEH) (Small House)
in “Green Belt” and “Village Type Development” zones,
Lot 218A in DD 5,
Tai Po Tau Village,
Tai Po

(RNTPC Paper No. A/TP/364)

Presentation and Question Sessions

82. 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) proposed House (New Territories Exempted House) (NTEH) (Small House);
- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) no public comment was received during the public inspection period and no local objection was received from the District Office; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 12.1 of the Paper, highlighting that the proposed development was generally in line with the interim criteria for assessing planning application for NTEH/Small House development.

83. In response to a Member's question, Mr. W.K. Hui said that the Town Planning Board (TPB) Guidelines No. 10 set out the criteria for assessing application for development within "Green Belt" ("GB") zone, and was applicable to the subject application. According to the Guidelines, which was attached at Appendix II of the Paper, the design and layout of any proposed development should be compatible with the surrounding area. The proposed House was located at the fringe of a large-scale village type house development as indicated in Drawing A-1 of the Paper, and it was compatible with the surrounding area.

Deliberation Session

84. Given that a major portion of the application site was within the "GB" zone, the same Member asked whether the general presumption against development in the "GB" zone should be followed. This Member also remarked that although the proposed development would not affect any trees as the site was a piece of barren land (Plan A-3 of the Paper), the site could still be retained for vegetation planting.

85. The Chairperson said that the Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories was also relevant to assess the subject application and pointed out that 51% the footprint of the proposed Small House was within the "Village Type Development" ("V") zone. Referring to paragraph (c) of the said Interim Criteria at Appendix III of the Paper, the Secretary added that if the proposed Small House was located outside the village 'environs' but falling partly within the "V" zone, favourable consideration could be given if more than 50% of the proposed Small House footprint fell within the "V" zone, provided that there was a general shortage of land in meeting the demand for Small House development.

86. The Chairperson remarked that as the current application met the Interim Criteria, and was right at the fringe of a large "V" zone, favourable consideration could be given. Members agreed.

87. 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 3.2.2010, 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 facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the submission of a Geotechnical Planning Review Report and implementation of mitigation measures identified therein to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board;
- (c) the provision of an emergency vehicular access and fire fighting supplies to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (d) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board.

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

- (a) the applicant might need to extend his inside services to the nearest government water mains for 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 the Water Supplies Department's standards;
- (b) water mains in the vicinity of the application site could not provide the standard fire-fighting flow;

- (c) the applicant should employ a professional land surveyor to survey the lot so as to ensure that the proposed Small House fell fully within the lot boundary, as the south-eastern portion of the revised house was very close to its respective south-eastern lot boundary;
- (d) the applicant should consult the Environmental Protection Department regarding the sewage treatment/disposal method for the proposed development; and
- (e) the applicant was required to submit site formation works to the Buildings Department in accordance with the provisions of the Buildings Ordinance.

[Professor David Dudgeon left the meeting temporarily at this point.]

Agenda Item 8

[Open Meeting (Presentation and Question Sessions Only)]

Proposed Amendments to the
Draft Ting Kok Outline Zoning Plan No. S/NE-TK/11
(RNTPC Paper No. 5/06)

Presentation and Question Sessions

89. Mr. W.K. Hui, DPO/TPN, stated that the proposed amendments to the draft Ting Kok Outline Zoning Plan was to incorporate the latest refinements to the Master Schedule of Notes to Statutory Plans agreed by the Town Planning Board. The amendments to the Notes included revising the definition of ‘existing building’ and the planning intention of “Open Space” zone.

90. Members had no question on the proposed amendments.

Deliberation Session

91. After deliberation, the Committee decided to agree that :

- (a) the draft Ting Kok Outline Zoning Plan (OZP) (to be renumbered as S/NE-TK/12 upon gazetting) and its revised Notes at Appendices I and II of the Paper respectively were suitable for exhibition for public inspection under section 7 of the Town Planning Ordinance;
- (b) the updated Explanatory Statement (ES) at Appendix III of the Paper should be adopted as expressions of the planning intentions and objectives of the Board for the various land use zonings of the draft OZP and issued under the name of the Board; and
- (c) the updated ES was suitable for exhibition for public inspection together with the draft OZP.