

RNTPC Paper No. A/YL-KTN/575A
For Consideration by
the Rural and New Town
Planning Committee
on 12.1.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/575

- Applicant** : Bright Strong Limited represented by Grandmax Surveyors Limited
- Site** : Lots 1555 S.A (Part), 1555 S.B RP (Part), 1557 RP (Part), 1558 (Part) and 1559 (Part) in D.D. 107, Kam Tin, Yuen Long
- Site Area** : About 9,763m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Comprehensive Development Area (1)”
[restricted to a maximum plot ratio of 1.2 and a maximum building height of 16 storeys]
- Application** : Temporary Site Office with Ancillary Open Storage of Building Materials, Storage of Repairing Tools and Staff Car Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary site office with ancillary open storage of building materials, storage of repairing tools and staff car park for a period of three years. The Site is paved, fenced and currently used for the applied use without valid planning permission (**Plans A-2 to A-4**). The Site is not involved in any previous application.
- 1.2 According to the applicant, the development involved four one-storey structures including site office and storage of repairing tool, and canopy for car park and waiting area. Another 64 one-storey converted containers are for site office and storage of repairing tools. The open storage area for building materials is about 755.2m² (i.e 7.74 % of the Site) (**Drawing A-1**). The dimension of each structure are listed in the table below:

Structure	No. of unit	Use	Floor Area (m ²)	Height (m)
A-1	1	Main site office for management staff	1,505	3.0 (1 storey)
A-2	1	Ancillary site office and storage of repairing tools	60	2.9 (1 storey)
B	2	Canopy for car park for management staff/waiting area for staff shuttle bus	349	3.0 (1 storey)
Container	64	Ancillary site office and storage of repairing tools	1,013	2.59 (1 storey)
Total:			2,927	N/A

The development operates from 8:00am to 7:00pm from Mondays to Saturdays. There is no operation on Sundays and public holidays. 19 private car parking spaces and 2 loading/unloading spaces are provided on site. The Site is accessible to Castle Peak Road-Tam Mi via a local track. The layout plan, landscape plan and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-3**.

1.3 In support of the application, the applicant has submitted the following documents :

- (a) Application form and letter clarifying the applied use **(Appendix I)**
received on 24.8.2017
- (b) Planning Statement **(Appendix Ia)**
- (c) Supplementary information (SI) clarifying the applied use received on 29.8.2017 **(Appendix Ib)**
- (d) FI received on 14.11.2017 clarifying the shuttle bus services arrangement and justification of car parking spaces and trip generation of the Site **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
- (e) FI received on 6.12.2017 providing alternative transport arrangement to the Site in response to departmental comments **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)
- (f) FI received on 3.1.2018 clarifying the vehicle type to the Site and the area for open storage use **(Appendix Ie)**
(accepted and exempted from publication and recounting requirements)

- 1.4 As requested by the applicant, the Committee agreed to defer consideration of the application on 13.10.2017 to allow time for the applicant to prepare FI to address the departmental comments. After the deferral request, the applicant had submitted FI in response to departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications are detailed in the planning statement in **Appendix Ia**. They can be summarized as follows:

- (a) The applied use is essential for providing site offices for monitoring/supervisory the construction progress and the follow-up repairing/replacing works of the adjoining residential development, Park Yoho, which is under construction. As Park Yoho is nearly completed and majority of its area has already handed over to the property management company, there is no land available within Park Yoho to cater for the applied use. The Site is considered as an ideal, feasible and reasonable location for the applied use due to its locational advantage of adjacent to Park Yoho, and less susceptible to the local environment.
- (b) The genuine and temporary nature of the applied use would not jeopardize the planning intention of the “CDA(1)” zone as the applied use will be immediately ceased upon occupation of Park Yoho on or before 2020. No renewal of the current application is considered necessary.
- (c) Valuable land resources can be optimized in the interim before the Site is developed for residential use. No undesirable precedent will be created given the characteristics and background of the application.
- (d) The applied use is not incompatible with the surrounding as the immediate vicinity of the Site is under construction stages. No adverse traffic, environmental or fire safety concerns will be caused by the applied use.

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

The applicant is the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to on-going enforcement action against an unauthorized development (UD) involving office use, parking of vehicles and storage use (including deposit of containers). An Enforcement Notice was issued on 9.8.2017 to the concerned parties requiring discontinuance of the UD. If the requirement of the statutory notice was not complied with upon the expiry of the notice, further enforcement action would be taken against the notice recipient.

5. Previous Application

The Site was not involved in any previous application.

6. Similar Application

There is no similar application within the “CDA(1)” zone.

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4c)

7.1 The Site is :

- (a) fenced and paved, and currently occupied by the applied use without valid planning permission (**Plans A-3 to A-4c**); and
- (b) accessible via a local track to Castle Peak Road – Tam Mei on the west (**Drawing A-3 and Plan A-1**).

7.2 The surrounding areas are predominated by open storage yards for construction materials, a residential development Park Yoho, a plant nurse, cultivated/fallow agricultural land and unused/vacant land. All of the open storages are operating without planning permission and subject to enforcement action by the Planning Authority (**Plan A-2**):

- (a) to the north are a storage and unused land;
- (b) to the east across a local track are vacant land, cultivated/fallow agricultural land and a plant nurse;
- (c) to the south is an open storage yard of construction materials and a nullah. Across the nullah are several open storage yards for construction materials; and
- (d) to the immediate west of the Site is an open storage yard of construction materials and some vacant land. Park Yoho is located at its further west.

8. Planning Intention

The “CDA” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the applications are summarized as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible to San Tam Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should the application be approved, the lots owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application will be considered by LandsD acting in the capacity of the landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

9.1.2 Comments of Commissioner for Transport (C for T) :

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, the following approval condition and advisory clause should be incorporated respectively:
 - (i) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

- (ii) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD) :

- (a) His department is not responsible for the maintenance of the access road outside the Site.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

There was no environmental complaint received for the Site in the past three years. The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by DEP.

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The surrounding area is rural in character, dominated by open storages, temporary structures, interspersed with tree groups. Residential development under developments are in close proximity. The applied temporary use is not incompatible with the existing landscape setting.
- (c) Based on the aerial photos in 2015, the Site is cleared without existing vegetation. There is no significant landscapes resource in proximity and further significant impact on existing landscape is not anticipated.

- (d) Should the application be approved, approval conditions on submission and implementation of landscape proposal should be included.
- (e) His detailed comments on the submitted Landscape Proposal are in **Appendix II**.

Drainage

- 9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) :
- (a) He has no in-principle objection to the development from the public drainage point of view.
 - (b) Should the application be approved, approval conditions on the submission and implementation of a drainage proposal for the development should be included.

Fire Safety

- 9.1.7 Comments of the Director of Fire Services (D of FS):
- (a) He has no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction.
 - (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. Besides, the good practice guidelines for open storage site (**Appendix III**) should be adhered to.
 - (c) Having considered the nature of the open storage, the approval condition on the provision of fire extinguisher(s) within 6 weeks from the date of planning approval should be included in the planning permission. To address this approval condition, the applicant should submit a valid fire certificate (FS 251) to his department for approval.
 - (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
 - (iii) Before any new building works (including containers/ open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
 - (v) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Electricity

9.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

He has not received any comments from the locals upon close of consultation.

9.2 The following Government departments have no objection or no comment on the applications:

- (a) Project Manager/NTW, Civil Engineering and Development Department (PM/NTW, CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 1.9.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 22.9.2017, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The applied use for temporary site office with ancillary open storage of building materials, storage of repairing tools and staff car park falls within the “CDA(1)” zone which is intended for comprehensive development/ redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. Although the applied use is not in line with the planning intention of the “CDA(1)” zone, there is no known development for this part of the “CDA(1)” zone. It is considered that approval of the application on a temporary basis of 3 years would not frustrate the long-term planning intention of the “CDA(1)” zone.
- 11.2 The applied use is considered not incompatible with the surrounding areas which are mixed with open storage yards for construction materials, residential development Park Yoho, a plant nursery, cultivated/fallow agricultural land and unused/vacant land. Relevant departments including C for T, CTP/UD&L of PlanD, CE/MN of DSD, D of FS and DEP have no objection to or adverse comment on the application. According to the applicant, the applied site office use is to monitoring/supervising the construction of the adjacent residential development. Upon completion, of the residential development (i.e. not later than 2020), the applied use will be ceased immediately. To mitigate any potential environmental impact, approval conditions restricting the operation hours and workshop activities as well as vehicles type are proposed in paragraph 12.2 (a) and (d). Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt relevant mitigation measures and requirements as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to alleviate any potential impact. Technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions (e) and (l) at paragraph 12.2 below.
- 11.3 No public comment has been received during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary site office with ancillary open storage of building materials, storage of repairing tools and staff car park could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 12.1.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference.

Approval Conditions

- (a) no operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium to heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/exit the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse into/from public road at any time during the planning approval period;
- (f) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 12.7.2018;
- (g) in relation to (f) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 12.10.2018;
- (h) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 12.7.2018;
- (i) in relation to (h) above, the implementation of drainage proposal 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 12.10.2018;
- (j) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.2.2018;
- (k) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.7.2018;

- (l) in relation to (k) above, the provision of fire service 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 12.10.2018;
- (m) if any of the above planning condition (a), (b), (c), (d) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (n) if any of the above planning conditions (f), (g), (h), (i), (j), (k) or (l) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (o) 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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

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

the development is not in line with the planning intention of the "CDA" zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and letters clarifying the applied use received on 24.8.2017
Appendix Ia	Planning Statement received on 24.8.2017
Appendix Ib	Supplementary information (SI) received on 29.8.2017
Appendix Ic	FI received on 14.11.2017
Appendix Id	FI received on 6.12.2017
Appendix Ie	FI received on 3.1.2018
Appendix II	Detailed comments of CTP/UD&L of PlanD
Appendix III	Good Practice Guidelines for Open Storage Sites
Appendix IV	Advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JANUARY 2018**