

RNTPC Paper No. A/YL-PH/784
For Consideration by
the Rural and New Town
Planning Committee
on 15.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/784

- Applicant** : Plus Investment Limited represented by Metro Planning and Development Company Limited
- Site** : Lot 77 (Part) in D.D. 108, Pat Heung, Yuen Long
- Site Area** : About 320 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : "Residential (Group D)" ("R(D)")
[Restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (real estate agency) for a period of 3 years. According to the Notes of the OZP for the "R(D)" zone, 'Shop and Services' is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is hard-paved and currently occupied by a vacant structure (**Plans A-2 to A-4b**). The Site is not the subject of any previous application.
- 1.2 According to the applicant, the Site will be occupied by a two-storey temporary structure (6.5m high) with total floor area of not exceeding 160m² for a real estate agency. One carpark space for private car will be provided within the Site. The proposed real estate agency will operate from 9 a.m. to 8 p.m. daily. The Site is accessible via a local road leading from Fan Kam Road. The proposed vehicular access will pass through a site under approved planning application No. A/YL-PH/679 for proposed house

development which was submitted by the same applicant of the current application. The site layout plan, landscape plan, vehicular access plan and drainage plan submitted by the applicant are at **Drawings A-1 and A-4**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form and Supplementary Planning (**Appendix I**) Statement received on 2.5.2018
 - (b) FI submitted on 5.6.2018 clarifying the traffic (**Appendix Ia**) arrangement and the operation details of the proposed use
(accepted and exempted from publication and recounting requirements)
 - (c) FI submitted on 7.6.2018 providing access (**Appendix Ib**) information
(accepted and exempted from publication and recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and FI in **Appendices I and Ia**. They are summarized as follows:

- (a) The proposed development is a Column 2 use under the Notes of the OZP which is in line with the planning intention of the “R(D)” zone. The use is temporary in nature which would not jeopardize the planning intention of the “R(D)” zone. The proposed real estate agency is intended to serve the need of the nearby landowners and villagers.
- (b) The proposed development is clean, tidy and non-polluting use. Considering the scale, nature, layout and its surroundings with open storage uses, they are compatible with the surrounding environment. No adverse traffic, environmental and drainage impact is anticipated.
- (c) There are several similar planning applications in the Yuen Long and Tuen Mun areas approved by the Rural and New Town Planning Committee.
- (d) The temporary structure at the Site is intended for the proposed real estate agency for the sale of 3 houses near the Site approved under Application No. A/YL-PH/679. The applicant confirmed that the structure is temporary in nature and will be demolished after the completion of the sale of the 3 houses.

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

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

4. **Background**

The Site is not the subject of any active enforcement cases and there is currently no enforcement action against it. Should there be sufficient evidence to prove that the use on site is an unauthorized development under the TPO, appropriate enforcement action will be taken.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Application**

There is no similar application within the same “R(D)” zone in the vicinity.

7. **The Site and Its Surrounding Areas (Plans A-1 to A-4b)**

7.1 The Site is:

- (a) hard-paved and currently occupied by a vacant structure (**Plans A-2 and A-4b**); and
- (b) accessible via a local road leading from Kam Tin Road.

7.2 The surrounding areas are rural in character mainly occupied by residential structures/dwellings, open storage/storage yards, workshops, a horse riding school and vacant/unused land. The open storage/storage yards and workshops are suspected unauthorized development subject to enforcement action by the Planning Authority (**Plan A-2**):

- (a) to its north is an open storage yard, which is subject to an approved application No. A/YL-PH/679 for proposed house. Further north and northeast is a horse riding school;
- (b) to its immediate south is a residential dwelling/structure. Further south are open storage yards and workshop; and
- (c) to its immediate west is a residential dwelling/structure. Further west across Fan Kam Road are some workshops and storage.

8. **Planning Intention**

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through

redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application 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 Scheduled 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 Fan Kam 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 over the GL to the Site.
- (c) The Site does not falls within Shek Kong Airfield Height Restriction Area.
- (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(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

9.1.2 Comments of the 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 approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period is recommended.

- (c) 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD is not and shall not be responsible for the maintenance of any existing access connecting the Site and Fan Kam Road.
- (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):

- (a) 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.
- (b) It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures. Effluent discharges from the proposed use are subject to control under the Water Pollution Ordinance (WPCO). A discharge licence under the WPCO should be obtained before a new discharge is commenced. If septic tank and soakaway system is used, its design and construction should follow the requirements of the Practice Note for Professional Person (ProPECC) PN/5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”.

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 Site is adjacent to Fan Kam Road to the west and is surrounded by open storages and car parks. The Site is not the subject of any previous planning application.
- (c) Based on the aerial photo taken in January 2018, the Site is situated in an area of rural landscape character comprising of open storage yards and car parks. Although the proposed uses not in line with the planning intention of “R(D)” zone, it is not incompatible to the surrounding environment. The Site is hard paved and occupied with existing structures. No existing tree is found within the Site. Adverse impact on landscape resources and landscape character arising from the proposed use is not anticipated.
- (d) Should the application be approved, approval conditions on the submission and implementation of landscape proposal should be included in the planning permission.
- (e) His detailed comments are at **Appendix II**.

Drainage

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

- (a) The submitted drainage proposal is considered acceptable and he has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the application be approved, the approval conditions requiring the applicant to implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site, BD is not in a position to offer comments on their suitability for the proposed use.
- (b) The applicant’s attention is drawn to the following points:

- (i) Unless the on-site structure is a New Territories Exempted House (NTEH) development, it is an 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 Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) 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.

Nature Conservation

9.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) Noting that the Site has been paved and occupied by temporary structure(s), he has no objection to the application from nature conservation point of view.
- (b) There is a watercourse to the east of the Site. Should the application be approved, the applicant is advised to adopt necessary measures to prevent polluting the watercourse during operation.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the proposal 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 plan should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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 comment from the locals upon close of consultation and he has no particular comment on the application.

9.2 The following departments have no objection to or no comment on the application:

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Comments of the Project Manager (West), Civil Engineering and Development Department (PM/W), CEDD);
- (c) Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 11.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.6.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (real estate agency) at the Site zoned “R(D)” on the OZP. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Although the proposed use is not entirely in line with the planning intention of the “R(D)” zone, there is no known programme for long-term development of the Site. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone.
- 11.2 The proposed development comprises a two-storey temporary structure with total floor area of about 160m². It is considered that the proposed use is not incompatible with the surrounding areas which are predominated by residential structures/dwellings, open storage/storage yards, workshops, a horse riding school and vacant/unused land (**Plan A-2**) which was submitted by the applicant of the current application. According to the applicant, the proposed real estate agency is intended to serve the nearby landowners and villagers, particularly the sale of the 3 houses near the Site under approved Application No. A/YL-PH/679. The applicant stated that the structure for the real estate agency will be demolished after the completion of sale of the 3 houses.
- 11.3 Given the nature and scale of the development, the proposed use is not anticipated to generate significant adverse traffic, environmental, visual and landscape impact. The relevant developments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance generated by the proposed development, approval conditions restricting operation hours and types of vehicles used are recommended in paragraphs 12.2 (a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact. Moreover, the technical requirements of C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (i) below.

12.4 No public comment was received during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the proposed temporary shop and services (real estate agency) 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 15.6.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the implementation of the accepted 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 15.12.2018;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times 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 15.12.2018;
- (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 15.3.2019;
- (h) 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 15.12.2018;
- (i) in relation to (h) 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 15.3.2019;
- (j) if any of the above planning conditions (a), (b), (c) 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;

- (k) if any of the above planning conditions (d), (f), (g), (h) or (i) 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
- (l) upon the expiry of the planning permission, the reinstatement of the 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 at **Appendix III**.

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

the development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification given in the submission for the 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

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| Appendix I | Application Form with Supplementary Planning Statement received on 2.5.2018 |
| Appendix Ia | FI submitted on 5.6.2018 |
| Appendix Ib | FI submitted on 7.6.2018 |
| Appendix II | Detailed comment of CTP/UD&L of PlanD |

Appendix III	Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape Plan
Drawing A-3	Vehicular Access Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**