

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-PH/809

<u>Applicant</u>	:	Henwin Limited represented by A & D Surveyors Ltd
<u>Site</u>	:	Lots 64 RP, 72 S.B ss.2 and 73 S.B RP in D.D. 108, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 7,188m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	:	“Residential (Group D)” (“R(D)”) [restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
<u>Application</u>	:	Renewal of Planning Approval for Temporary "Horse Riding School" for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary horse riding school for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use in “R(D)” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is the subject of 11 previous applications. Ten previous applications for temporary horse riding school were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1992 and 2017 for a period of 1 or 3 years, while one application for residential development was rejected by the Committee in 1992. The previous application No. A/YL-PH/732 for the same applied use and submitted by the same applicant of the current application was approved with conditions by the Committee on 24.6.2016 for a period of 3 years. All approval conditions have been complied with and the planning permission is valid until 24.6.2019.

- 1.3 According to the applicant, the development involves two single-storey structures with a total floor area of about 1,036.12m² and building heights ranging from 4.225m to 5.075m for office and stable uses. 30 private car parking spaces are provided within the Site. The operation hours are between 9:00 a.m. to 12:00 noon and from 2:00 p.m. to 6:00 p.m. from Tuesdays to Sundays (including public holidays) and there is no operation on Mondays. The Site is accessible from Fan Kam Road. The site layout plan as submitted by the applicant is at **Drawing A-1**.
- 1.4 The current application is same as the previous approved application (No. A/YL-PH/732) in terms of site area/boundary, total floor area and site layout.
- 1.5 In support of the application, the applicant has submitted the following:
- (a) Application form with plans received on 1.4.2019 and supplementary information received on 8.4.2019 **(Appendix I)**
 - (b) Further information (FI) received on 16.5.2019 in response to departmental comments **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement attached to the Application Form and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The application is submitted to continue the use approved under the previous application (No. A/YL-PH/732). The development parameters remain unchanged as compared with the previous approved scheme. Sufficient parking spaces are provided at the Site to accommodate the traffic generated.
- (b) The approval conditions of Application No. A/YL-PH/732 have been complied with and maintained throughout the approval period to the satisfaction of relevant government departments. It is hoped that the Committee would give favourable consideration to the renewal application.

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

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

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is currently not a subject of any active enforcement case. Follow-up investigation will be taken upon expiry of the planning permission if the current application is not approved by the Board.

6. Previous Applications

6.1 The Site was the subject of 11 previous applications (No. DPA/YL-PH/9 and 11, A/YL-PH/141, 337, 414, 519, 577, 609, 674, 732 and 755) for residential development and temporary horse riding school uses. Details of the previous applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1b**.

Rejected Application

6.2 Application No. DPA/YL-PH/9 for private residential development was rejected by the Committee on 14.8.1992 on the grounds that the configuration of the site was irregular and might impose undesirable constraint to the future planning and development of the surrounding areas; insufficient information to demonstrate that the development would have minimal adverse impact on the surrounding areas; no information on drainage impact and sewage treatment had been provided; water supply problem was not addressed; and the proposed development was subject to traffic noise from Fan Kam Road and no mitigation measures had been proposed.

Approved Applications

6.3 Applications No. DPA/YL-PH/11, A/YL-PH/141, 337, 414, 519, 577, 609 for temporary horse riding school for a period of 12 months or 3 years and Application No. A/YL-PH/674 for renewal of planning permission were approved with conditions by the Committee between 1992 and 2013 for the reasons that the developments were not incompatible with the surroundings; previous approvals had been granted; and the relevant departments had no adverse comment on the applications. However, Applications No. A/YL-PH/337, 414, 557 and 674 were revoked due to non-compliance with approval conditions on landscape, drainage and/or fire safety aspects.

6.4 Application No. A/YL-PH/732 and the last application No. A/YL-PH/755¹ for temporary horse riding school submitted by the same applicant as the current application were approved with conditions by the Committee on 24.6.2016 and 22.9.2017 for a period of 3 years respectively for similar reasons as stated in paragraph 6.3. For Application No. A/YL-PH/732, all approval conditions have been complied with and the planning permission is valid until 24.6.2019. For the last application No. A/YL-PH/755, the planning permission was revoked on 22.3.2018 due to non-compliance with approval conditions in relation to submission of tree preservation and fire service installations proposals. The current application seeks renewal of planning approval of Application No. A/YL-PH/732.

¹ When compared with Application No. A/YL-PH/732, Application No. A/YL-PH/755 involves an addition of a proposed cover for an existing paddock without changing the site area/boundary and layout.

7. Similar Application

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

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

8.1 The Site is:

- (a) currently used for the applied use with valid planning permission; and
- (b) abutting Fan Kam Road with direct access from the road.

8.2 The surrounding areas are rural in character with open storage/storage yards, vehicle workshops, a residential dwellings/structure, an orchard, cultivated agricultural land, a fah tong and vacant/unused land. The open storage yards and workshop are suspected unauthorised developments subject to enforcement action by the Planning Authority:

- (a) to its immediate north and northeast are open storage/storage yards, vehicle workshop, a residential dwellings/structure, cultivated agricultural land and vacant/unused land;
- (b) to its immediate east is a stream course running along the eastern boundary of the Site. To its further east across the stream are horse riding facilities operated without valid planning permission;
- (c) to its further west across Fan Kam Road are storage yards, a workshop, an fah tong, an orchard and unused land; and
- (d) to its immediate southwest and south are vacant/unused land with a site subject to planning permission under Application No. A/YL-PH/784 for temporary shop and services.

9. 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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views are summarized as follows:

Land Administration

10.1.1 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) Lot Nos. 64 RP and 73 S.B RP in D.D. 108 are covered by a Short Term Waiver (STW) No. 3343 to permit structures erected thereon for the purpose of “Horse riding school and ancillary use”.
- (c) The Site is accessible from Fan Kam Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area (SKAHRA).
- (e) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above 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(s) 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

10.1.2 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, 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 should be included.
- (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.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain the accesses 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

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

- (a) There is no substantiated environmental complaint concerning the Site received in the past three years.
- (b) It is considered that a properly managed horse riding school would unlikely cause adverse environmental impact. The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses” issued by the DEP to minimize any potential environmental nuisance.
- (c) The applicant is reminded that effluent discharges from the applied use are subject to control under the Water Pollution Control Ordinance. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site.

Landscape

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

- (a) In view of the application does not involve any landscape issue and there is no significant landscape resources within the Site, no significant landscape impact is envisaged.
- (b) In view that there are abundant trees for screening within and along the Site, should the application be approved, it is considered not necessary to impose any landscape condition.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Presumably, the applicant would maintain the same drainage facilities as those implemented under previous Application No. A/YL-PH/732.
- (c) Should the application be approved, approval conditions on the maintenance of the existing drainage facilities implemented under Application No. A/YL-PH/732 and submission of records of the existing drainage facilities on site should be included.

Nature Conservation

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

- (a) As the Site has been used as a horse riding school for some time, he has no comment on the application from nature conservation perspective.
- (b) The Site is immediately adjacent to a watercourse. Should the application be approved, the applicant is advised to adopt appropriate measures to avoid disturbing and polluting the watercourse during operation of the riding school.
- (c) A valid Riding Establishment Licence has been granted by his department at the subject location till July 2019.

Fire Safety

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

- (a) He has no objection in principle 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.
- (c) 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

10.1.9 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 (BA) for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) Before any new buildings works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are UBW under the BO and should not be designated for any use under application.
- (d) For UBW erected on leased land, enforcement action may be taken by 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.
- (e) 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.
- (f) 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.

District Officer's Comments

10.1.10 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 and he has no particular comments on the application.

10.2 The following Government departments have no comment on the application:

- (a) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);

- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 12.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.5.2019, one comment from an individual was received (**Appendix IV**). The commenter objects to the application mainly on the grounds that while there is lack of land for housing, the Site zoned “R(D)” is used as a horse riding school; and the operator fails to comply with the approval conditions repeatedly.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary horse riding school for a period of three years within the “R(D)” zone. 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. The development is not entirely in line with the planning intention of the “R(D)” zone. Nevertheless, there is no planned residential development at the Site. It could also provide a recreational spot for enjoyment of the public. It is considered that approval of the application on a temporary basis for a period of 3 year would not jeopardize the long-term planning intention of the “R(D)” zone.
- 12.2 The temporary horse riding school with relatively low-rise structures covering only about 14% of the Site is considered not incompatible with the surrounding areas which are rural in character with open storage/storage yards, vehicle workshops and parking, a residential dwellings/structure, an orchard, cultivated agricultural land and vacant/unused land. CTP/UD&L of PlanD has no adverse comment on the application from landscape planning perspective. Moreover, the Site is abutting Fan Kam Road with direct access from the road. The vehicular traffic from the Site would not pass through the nearby residential settlements.
- 12.3 The application is in line with the TPB PG-No. 34C in that 10 previous approvals for the same applied use were granted between 1992 and 2017 (**Plan A-1b** and paragraph 6 refer). All approval conditions of the planning permission under Application No. A/YL-PH/732 have been complied with. The current application is the same as Application No. A/YL-PH/732 in terms of site area/boundary with the same site layout. There is also no major change in planning circumstances since the approval. In this regard, favourable consideration can be given to the renewal application.
- 12.4 Relevant departments consulted including DEP, C for T, CTP/UD&L of PlanD, CE/MN of DSD, D of FS and DAFC have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours are recommended in paragraph 13.2 (a) and (b) below. 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. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (c) to (i) in paragraph 13.2 below.

- 12.5 One public comment was received during the statutory public inspection period objecting to the application mainly on the grounds that the Site zoned "R(D)" should not be used for the applied use as stated in paragraph 11. In this regard, temporary approval would not jeopardise the long-term planning intention of the zone. The departmental comments as well as planning assessments and considerations above are also relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment in paragraph 11, the Planning Department has no objection to the temporary horse riding school for a period of 3 years.
- 13.2 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, and be renewed from 25.6.2019 until 24.6.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Mondays, as proposed by the applicant, is allowed on the Site 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 existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of records of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 25.9.2019;
- (f) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.12.2019;

- (g) the provision of fire service installations within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.3.2020;
- (h) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (e), (f) or (g) 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.

[The above approval conditions are the same as those under the planning permission of previous Application No. A/YL-PH/732, except condition on maintenance of existing trees and landscape plantings is deleted based on CTP/UD&L of PlanD's comment.]

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

- 13.3 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 "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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant renewal of the planning approval.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form with plans received on 1.4.2019 and supplementary information received on 8.4.2019
Appendix Ia	FI submitted on 16.5.2019
Appendix II	Relevant extract of Town Planning Board Guidelines for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34C)
Appendix III	Previous s.16 applications covering the application site
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2019**