

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

APPLICATION NO. A/YL-PH/785

- Applicant** : Mr. LAI Eduardo Fernando
- Site** : Lot 1663 RP (Part) in D.D.111, Leung Uk Tsuen, Pat Heung, Yuen Long
- Site Area** : 521m² (About)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)
[Maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant sought renewal of planning permission to use the application site (the Site) for temporary site office for a period of 3 years. The Site is currently used for the applied use permitted under Application No. A/YL-PH/717.
- 1.2 The Site was involved in 7 previous planning applications (No. A/YL-PH/259, 313, 434, 522, 584, 643 and 717). All the previous applications for open storage and site office uses were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1999 to 2015. The last Application No. A/YL-PH/717 submitted by the same applicant for the same use as the current application was approved with conditions by the Committee on 3.7.2015. All approval conditions including those related to drainage and fire safety aspects have been complied with and the planning permission is valid until 20.7.2018.
- 1.3 According to the information submitted by the applicant, the temporary site office is a two-storey structure with a height of about 5.2m and a total floor area of about 148.64m². No repair work will be carried out. The operation hours are from 9:00 a.m. to 6:00 p.m. on Mondays to Saturdays and there is no operation on Sundays and public holidays. The Site is accessible via a local track branching off Kam Tin Road. The layout plan, landscape plan, existing

drainage system plan and fire services installation plans as submitted by the applicant are in **Drawings A-1 to A-4**.

- 1.4 When compared with the previous approved application No. A/YL-PH/717, the current application is same as the last application in terms of the applied use, site area/boundary and site layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans and supplementary information received on 14.5.2018 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 25.5.2018 clarifying the operation hours of applied use **(Appendix Ia)**
 - (c) Further Information (FI) received on 26.6.2018 clarifying the traffic arrangement **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement at **Appendix I**. They can be summarized as follows:

- (a) The conditions and natures of the use are the same as the previous application No. A/YL-PH/717.
- (b) The applicant owns a landscaping company which is a major landscaping company operating in Hong Kong. It is currently contracted with a number of Government landscaping projects and private sector works. The office provides an administration and logistics centre in support of the public works projects.
- (c) The operation of the Site has not disturbed the neighbourhood nor caused any form of pollution. Drains have been laid at the Site and hence no flooding will occur. Fire service installations were in place. Besides, the Site has been landscaped and there are several trees by the road side. No tree will be felled. As such, the applied use will not bring any adverse effect on ecology, environment and the nearby residents.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by obtaining the consent from the 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. 34B) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is not a subject of any active planning enforcement case and there is currently no enforcement action against it. Should the application for renewal of planning approval is not granted and the Site is used for office use after the expiry of the current planning approval, such use would be considered as an unauthorized development and enforcement action would be taken against it.

6. Previous Applications

6.1 The Site was the subject of 7 previous applications (No. A/YL-PH/259, 313, 434, 522, 584, 643 and 717). Details of the applications are summarized in **Appendix III** and the locations of the sites are shown at **Plan A-1**.

6.2 Applications No. A/YL-PH/259 and 313 with a larger site area for temporary open storage of left-hand drive vehicles prior to sale were approved with conditions by the Committee on 5.2.1999 for 12 months and 14.1.2000 for 3 years respectively. Approvals were granted for the reasons that the development was considered acceptable in view of the nature of the items stored and that no workshop use was involved; direct access to Kam Tin Road was provided and traffic generated from the development would not pass through major village settlement in the area and would unlikely induce adverse traffic and environmental impacts on the surrounding areas; and there was no adverse comments from Government departments and no local objection from the villagers. However, Application No. A/YL-PH/313 was subsequently revoked on 14.10.2000 due to non-compliance with approval condition related to the provision of drainage facilities.

6.3 Applications No. A/YL-PH/434, 522, 584 and 643 submitted by the same applicant for the same use as the current application were approved with conditions by the Committee on 27.6.2003, 2.6.2006, 10.7.2009 and 20.7.2012 respectively for a period of 3 years for similar reasons that there was no Small House application at the site; no repairing works would be carried out on-site; the proposed temporary site office was not incompatible with the neighbouring use in the area and would unlikely induce adverse environmental impact to the immediate surroundings; and there were no adverse comment from Government departments and no local objection. All approval conditions including those related to landscape, drainage and fire safety aspects under these applications had been complied with.

- 6.4 The last Application No. A/YL-PH/717 submitted by the same applicant for the same use as the current application was approved with conditions by the Committee on 3.7.2015 for a period of 3 years until 20.7.2018 on similar reasons as mentioned in paragraph 6.3 above. All approval conditions including those related to drainage and fire safety aspects have been complied with. The planning permission is valid until 20.7.2018
- 6.5 The current application is the same as the last approved application (No. A/YL-PH/717) in terms of site area/boundary, applied use and site layout.

7. Similar Application

There is no similar application for temporary office use within the same “V” zone.

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

- 8.1 The Site is:
- (a) accessible via a local track branching off Kam Tin Road; and
 - (b) fenced off and paved and currently used for the applied use with valid planning permission.
- 8.2 The surrounding areas are generally residential in character with village settlements and some open storage/storage yards. Some of the open storage/storage yards are suspected unauthorized developments subject to enforcement action by the Planning Authority:
- (a) to its east and south are residential dwellings/structures. To its west are residential dwellings/ structures, open storage yards and unused land in “Agriculture” (“AGR”) zone; and
 - (b) to its north across Kam Tin Road are mainly open storage/ storage yards, workshops and residential dwellings/structures in “Open Storage” (“OS”) zone.

9. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board (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 an Old Schedule Agricultural Lot 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 No. 1663RP in D.D. 111 is covered by a Short Term Waiver (STW) No. 3123 to permit structures erected thereon for the purpose of 'office and greenhouse'.
- (c) The Site is accessible to Kam Tin 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 falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield limit within SKAHRA.
- (e) Should planning approval be given to the application, the STW holder(s) will need to apply to his office for modification of the STW conditions if there is any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as the 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.
- (f) There is no Small House application approved or under processing within the Site.

Transport

10.1.2 Comments of the Commissioner for Transport, (C for T):

- (a) He has no comment on the renewal 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.

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 Kam Tin 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):

There is no environmental complaint received in the past three years. The applicant is advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Landscape

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

- (a) She has no objection to the application from the landscape planning point of view.
- (b) The Site is adjacent to Kam Tin Road to the north. Small houses are concentrated within “V” zone to the east of the Site. The Site is the subject of seven previous planning applications for open storage and site office uses. She had no objection to the last Application No. A/YL-PH/717 from the landscape planning perspective.
- (c) Based on the aerial photo taken in January 2018, the Site is situated in an area of rural landscape character comprising of scattered tree groups and small houses. Although the proposed use is not in line with the planning intention of “V” zone, it is not incompatible to the surrounding environment.

- (d) Referring to the site photos taken in June 2018, no significant change is observed in the adjacent area and within the application boundary since the last application. The existing landscaping implemented for the previous application is in good condition. Adverse impact on landscape character and landscape resources arising from the continual use of temporary site office is not anticipated.
- (e) Should the application be approved, a landscape condition to maintain the existing trees and vegetation on the Site satisfactorily at all times during the approval period is recommended for inclusion in the planning permission.

Nature Conservation

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

Nothing that the Site has been paved and the application is a renewal of an existing use, he has no comment on the application from nature conservation point of view.

Drainage

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

- (a) He has no in-principle objection to the development.
- (b) Based on the drainage proposal provided, apparently the applicant would maintain the same drainage facilities as those maintained under previous Application No. A/YL-PH/717.
- (c) Should the application be approved, approval conditions on maintenance of the existing drainage facilities implemented under Application No. A/YL-PH/717 and submission of records of the existing drainage facilities on the Site should be included in the planning permission.

Fire Safety

10.1.8 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.

- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Building 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 structures existing on the Site and Building Department (BD) is not in a position to offer comments on their suitability for the use related to the application.
- (b) The applicant's attention should be drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of BD (not being New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the planning application.
 - (ii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA 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. 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.
 - (iii) For UBW erected on leased land, enforcement action may be taken by the BA 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-site under the BO.
 - (iv) 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) (DO(YL)):

He has not received any comment from the locals upon close of consultation and he has no particular comment on the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Highway Engineer/Works, HyD (CHE/Works, HyD);
- (d) Project Manager/New Territories North and West, Civil Engineering and Development Department (PM/NTN&W, CEDD); and
- (e) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 29.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 19.6.2018, no public comment has been received.

12. Planning Considerations and Assessments

- 12.1 The Site falls within an area zoned "V" which is intended to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Although the applied use is not entirely in line with the planning intention of the "V" zone, DLO/YL of LandsD advises that there is no Small House application approved or under processing at the Site. Therefore, approval of the application on a temporary basis would not frustrate the long-term planning intention of the Site.
- 12.2 According to the applicant, the applied use is for office purpose only to support the applicant's landscaping company and no repairing work will be carried out on the Site. The development which is for office use would unlikely induce adverse environmental impact to the immediate surroundings and the applied use is considered not incompatible with the neighbouring uses in the area which mainly comprises residential dwellings/structures and open storage yards.
- 12.3 The Site is the subject of five previous approvals for the same use and the last application (No. A/YL-PH/717) was approved with conditions by the Committee on 3.7.2015 with validity until 20.7.2018. The renewal application is considered in line with the TPB PG-No. 34B in that there is no significant change in planning circumstances since the last approval, and all approval conditions of the last application including those related to drainage and fire safety aspects have been complied with. Relevant Government departments

consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application and no local objection was received during the statutory publication period. To minimize any potential environmental nuisance, approval conditions restricting operation hours and types of vehicles and prohibiting workshop-related activities are recommended in paragraph 13.2 (a) to (c) 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. In addition, the applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS is recommended to be included in approval conditions in paragraph 13.2 (d) to (j) below.

- 12.4 There is no public comment received during the statutory public inspection period.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary site office could be tolerated 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 21.7.2018 until 20.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed at 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) the Site should only be used as office and no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out at the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance or container trailers/tractors are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) the existing trees and vegetation on the Site shall be maintained satisfactorily at all times during the planning approval period;

- (f) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (h) 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 21.10.2018;
- (i) 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 21.1.2019;
- (j) in relation to (i) above, the implementation of fire service installations proposal 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 21.4.2019;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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;
- (l) if any of the above planning conditions (h), (i) or (j) 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
- (m) 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.

[The above approval conditions are the similar as those under the planning permission for previous Application No. A/YL-PH/717 that approval conditions (g) and (i) are added in response to C for T and D of FS's comments.]

Advisory clauses

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

- 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 "V" zone which is 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. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong

planning justification in the submission for a departure from such 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 permission for renewal of the planning permission.
- 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 and supplementary statement received on 14.5.2018
- Appendix Ia** SI received on 25.5.2018
- Appendix Ib** FI received on 26.6.2018
- Appendix II** Relevant extract of the Town Planning Board Guidelines No. 34B on 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34B)
- Appendix III** Previous applications covering the application site
- Appendix IV** Advisory Clauses
- Drawing A-1** Site Layout Plan
- Drawing A-2** Landscape Plan
- Drawing A-3** Existing Drainage System Plan
- Drawings A-4a and A-4b** Fire Services Installation Plan
- Plan A-1a** Location Plan
- Plan A-1b** Previous Application Plan
- Plan A-2** Site Plan

Plan A-3 Aerial Photo

Plan A-4 Site Photos

**PLANNING DEPARTMENT
JULY 2018**