

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/558

- Applicant** : Busy Firm Investment Limited represented by Gender Consultants Limited
- Site** : Lot 894 RP in D.D. 122, Ping Shan, Yuen Long, New Territories
- Site Area** : About 4,424 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ping Shan Outline Zoning Plan No. S/YL-PS/17
- Zoning** : “Comprehensive Development Area” (“CDA”)
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys including car park]
- Application** : Proposed Temporary Public Vehicle Park (excluding Container Vehicles) 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 public vehicle park (excluding container vehicle) for a period of 3 years (**Plan A-1**). According to the Notes for the “CDA” zone on the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plan A-4**).
- 1.2 The Site, in part or in whole, is related to 9 previous applications (No. A/DPA/YL-PS/19 for proposed residential development; Nos. A/YL-PS/33, 103, 112, 131, 148, 181, 223 and 290 for temporary container vehicle/lorry/private car parks and open storage of vehicles/construction materials). Details of the previous applications are summarised at paragraph 5 below and at **Appendix II**.
- 1.3 The major development parameters of the application are as follow:

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|--------------------|----------------------------|
| Site area | About 4,424 m ² |
| Maximum floor area | 3 m ² |
| No. of structure | 1 (guard room) |

| | |
|-----------------------------------|---|
| Maximum height of structure | 1 storey (2m) |
| No. of Private Car Parking Spaces | 151 (5m x 2.5m) 3 (5m x 3.5m for disabled) |
| Operation hours | 24 hours daily |

1.4 According to the applicant, the Site is abutting an existing road of about 6.5m wide leading directly from Long Ping Road. The proposed temporary car park will be used by private cars only. The proposed layout plan is at **Drawing A-1**.

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

- (a) Application form received on 15.3.2018 with site plan and proposed layout plan **(Appendix I)**
- (b) Letter of 29.5.2018 providing responses to comments from the Transport Department (TD) **(Appendix Ia)**
- (c) Letter of 21.6.2018 providing responses to public comments and stating that a notice will be posted to remind drivers on pedestrian safety **(Appendix Ib)**

1.6 The application was originally scheduled for the consideration by the Committee on 4.5.2018. On 4.5.2018, the Committee agreed to defer a decision on the application for two months as requested by the applicant. On 29.5.2018 and 21.6.2018, further information was received. Therefore, the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib**. They can be summarised as follows:

- (a) The car park is intended to serve the local residents and a road already exists. No adverse effect to the traffic condition to Long Ping Road and surrounding roads is anticipated.
- (b) As no structures is proposed except a guard room of area not more than 3m² and height of 2m, no visual impact is anticipated.
- (c) The proposed car park would result in small amount of net increased trip generation and attraction during morning and evening only and would not impose significant traffic impact on the vicinity road network.
- (d) Warning notice will be posted inside the vehicle park to remind drivers that pedestrian may be present at the route of ingress and egress.

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

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

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Applications

- 5.1 The Site, in part or in whole, is related to 9 previous applications (Nos. A/DPA/YL-PS/19, A/YL-PS/33, 103, 112, 131, 148, 181, 223 and 290). Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/DPA/YL-PS/19 for proposed residential development was rejected by the Committee on 5.8.1994 for the reasons that the proposed development was not in line with the planning intention for the area; the site was irregular and the development concentrated in parts of the Site; the proposed development intensity was excessive; the proposed vehicular access was not acceptable; the drainage impact assessment was insufficient; and approval of the application would set an undesirable precedent.
- 5.3 The remaining 8 applications (Nos. A/YL-PS/33, 103, 112, 131, 148, 181, 223 and 290) were proposed for temporary parking for private cars, light goods vehicles and medium goods vehicles, with or without heavy goods vehicles and/or container lorries/vehicles, and storage of vehicles for sale. Among the 8 applications, only application No. A/YL-PS/148 was approved with conditions by the Board on review on 17.10.2003, but was revoked on 15.12.2003 for non-compliance with the approval condition on prohibiting the parking of heavy vehicles on site. For application Nos. A/YL-PS/33, 103, 112, 131, 181 and 223, they were rejected by the Committee/the Board on 17.7.1998, 7.12.2001, 31.5.2002, 2.5.2003, 11.6.2004, and 29.7.2005 respectively mainly for the reasons that the access was not suitable for heavy vehicles; the development was not compatible with the surrounding land uses (residential dwellings nearby); there was insufficient information to demonstrate no adverse drainage, traffic, environmental and visual/landscape impacts and the approval of the application would set an undesirable precedent. For application No. A/YL-PS/290, it was dismissed by the Town Planning Appeal Board (TPAB) on 23.8.2010 on grounds that the development was not compatible with the surrounding land uses, not in line with TPB PG-No. 13E and approval of the application would set an undesirable precedent.
- 5.4 Compared with the last rejected Application No. A/YL-PS/290, the current application is submitted by a different applicant for a different use.

6. Similar Application

There is no similar application within the same “CDA” zone on the OZP.

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

7.1 The Site is:

- (a) currently vacant; and
- (b) accessible via an existing track connecting to Long Ping Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north of the Site is the West Rail viaduct. To the further north are village office, residential dwellings, open storage yards for vehicles and marble which are suspected unauthorised development (UD), and vacant land;
- (b) to the east is a container office and parking of vehicles which are suspected UD;
- (c) to the south is mainly vacant land. Some residential dwellings and open storage of sand which are suspected UD to the further south; and
- (d) to the west are some residential dwellings, open storage of converted containers which are suspected UD and unused land.

8. Planning Intention

The “CDA” zone is intended for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. 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 application are summarised as follows:

Land Administration

9.1.1 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 prior approval of the Government.
- (b) The Site is accessible to Long Ping Road via government land (GL). His office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.

- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularities on site. Such application(s) will be considered by the 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.

9.1.2 Comments of the Chief Estate Surveyor/Railway Development (CES/RD), LandsD:

The Site falls within West Rail Protection Boundary. Comments from MTRCL on the Site should be sought.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorised building works (UBW) under the Buildings Ordinance (BO). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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.
- (c) 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.
- (d) 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.

Traffic

9.1.4 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no comment on the application.
- (b) The applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles. In addition, no parking, queuing and reserve movement of vehicles on public road are allowed.

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

- (a) The access arrangement should be commented by TD.
- (b) The Site encroaches on the Railway Protection Zone of West Rail.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Long Ping Road.

9.1.6 Comments of the Chief Engineer/Railway Development 2-2 (CE/RD 2-2), Railway Development Office (RDO), HyD:

The Site falls within the protection boundary of the West Rail Line. As the operation of the existing railway system is not under the jurisdiction of his Office, he has no comments on the application from railway development point of view. However, MTRCL should be consulted with respect to operation, maintenance, safety and future construction of the existing railway network.

Environment

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

- (a) Should the application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environment Aspects of Temporary Uses and Open Storage Sites”.
- (b) There were three non-substantiated environmental complaints pertaining to the Site received in the past 3 years.

Drainage

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

He has no objection in principle to the proposed application from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of D of FS.
- (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.
- (c) The applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) However, the applicant should be 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.

Landscape

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

- (a) With reference to the site photos dated 23.3.2018 and aerial photo of 2017, it is observed that the Site is formed with large trees generally along the site boundary. Train tracks are observed to the north of the Site. The Site is observed to be in an area of rural landscape character disturbed by open storage yards and temporary structures. The trees observed from the aerial photo appear to be wild self-seeded/weedy trees. Significant change to the landscape character arising from the Site is not envisaged.
- (b) The applicant is advised that the approval of the landscape proposal under s.16 application does not imply approval of tree

works such as pruning, transplanting and felling under lease. Tree works applications should be submitted direct to DLO for approval.

- (c) In compliance with the “Technical Note on the Submission and Implementation of Landscape Proposals for Compliance with Conditions for Approved Applications for Open Storage and Port Back-up Uses”, the applicant should leave adequate spacing between the fence, structures and trees to promote a more sustainable growing environment for the trees. A minimum distance of 600mm between the fence and the tree planting should be provided.
- (d) The applicant is also advised that there should be a minimum soil provision of 1m (W) x 1m (L) x 1.2m (D) for each tree.
- (e) Precautious measures such as bollards and/or kerbs should be proposed to prevent damage to the trees.
- (f) The applicant shall be reminded of the importance of general tree care as well as proper tree maintenance. Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: http://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) published by the GLTM Section, DEVB.

District Officer’s Comments

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

His Office relayed one supporting comment from the village representative of Wing Ning Tsuen on the application upon the end of the consultation period (**Appendix III**).

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (d) Commissioner of Police (C of P);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Director of Electrical and Mechanical Services (DEMS);
- (g) Chief Engineer/Special Tasks, Civil Engineering and Development Department (CE/ST, CEDD); and
- (h) Project Manager (West) (PM(W)), CEDD.

10. Public Comments Received During Statutory Publication Period

On 23.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.4.2018, five objecting public comments, of which four from villagers/residents of Wing Ning Tsuen and one from an individual, (**Appendices IVa to IVe**) were received mainly on the grounds of posing threats on pedestrian safety and health, the previous unauthorised developments including container vehicle parks and open storage yards at the Site, and inefficient land use.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area zoned “CDA”. The “CDA” zone is intended for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. 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. Whilst the development is not in line with the planning intention of the “CDA” zone, there is no known development proposal to implement the zoned use for the time being. Temporary approval of the application for a period of 3 years would not jeopardise the long-term planning intentions of the “CDA” zone.
- 11.2 The proposed development is not incompatible with the surrounding areas mixed with vehicle parks, open storage yards, residential dwellings and unused land (**Plan A-2**).
- 11.3 Relevant Government departments, including AC for T/NT, DEP, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to or adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. Besides, there is no substantiated environmental complaint pertaining to the Site received by DEP in the past three years. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 12.2 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. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 Compared with the previous rejected applications for temporary vehicle parks which involve parking of container and medium vehicles, the current application is proposed for private cars. The Board has approved one previous application (No. A/YL-PS/148) for the same use as the current application at the Site on review. Approval of the current application is in line with the previous decision of the Board.

- 11.5 There are five public comments objecting to the application received on the grounds as summarized in paragraph 10. On the concern of pedestrian safety, the applicant proposes to post a notice to remind drivers on pedestrian safety on the access road to the Site. A relevant approval condition is recommended in paragraph 12.2(c). The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. Besides, DO(YL), HAD has relayed one supporting comment as summarised in paragraph 9.1.11 above.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraphs 9.1.11 and 10 above, the Planning Department considers that the proposed temporary public vehicle park (excluding container vehicles) 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 6.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) only private cars as defined in the Road Traffic Ordinance are allowed to enter/be parked on the Site, as proposed by the applicant, at all times during the planning approval period;
- (b) a notice shall be posted at a prominent location of the Site at all times to indicate that only private cars as defined in the Road Traffic Ordinance are allowed to enter/be parked on the site during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site to remind drivers on pedestrian safety on the access road to the Site, as proposed by the applicant, at all times during the planning approval period;
- (d) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (e) no vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity is allowed on the Site at any time during the planning approval period;
- (f) no vehicle is allowed to park, queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.1.2019;

- (h) in relation to (g) 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 **6.4.2019**;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) 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 **6.1.2019**;
- (k) in relation to (j) above, the implementation of fire service installations proposal 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 **6.4.2019**;
- (l) 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 **6.1.2019**;
- (m) in relation to (l) 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 **6.4.2019**;
- (n) the provision of boundary fencing within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (i) 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;
- (p) if any of the above planning conditions (g), (h), (j), (k), (l), (m) or (n) 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
- (q) 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 attached at **Appendix V**.

- 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 intentions of the “CDA” zone which is intended for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. 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 for a departure from the planning intentions, 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 received on 15.3.2018 with site plan and proposed layout plan |
| Appendix Ia | Letter of 29.5.2018 providing responses to comments from the Transport Department (TD) |
| Appendix Ib | Letter of 21.6.2018 providing responses to public comments and stating that a notice will be posted to remind drivers on pedestrian safety |
| Appendix II | Previous applications covering the Site |
| Appendix III | Local comment relayed from DO(YL), HAD |
| Appendices IVa to IVe | Public comments received during statutory publication period |
| Appendix V | Advisory Clauses |
| Drawing A-1 | Proposed Layout Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |