

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/967**

- Applicant** : Joyful House (Rehabilitation Dormitory)
- Site** : Lot 1504 S.B in D.D. 119, Pak Sha Tsuen, Kung Um Road, Yuen Long, New Territories
- Site Area** : 353m<sup>2</sup> (about)
- Lease** : (a) Block Government Lease (demised for agricultural use)  
(b) Building Licence No.197 for non-industrial purpose
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Social Welfare Facility (Residential Care Home for Persons with Disabilities) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a temporary social welfare facility (Residential Care Home for Persons with Disabilities) (RCHD) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4a to A-4c**). The Site was not involved in any previous application.
- 1.2 The Site is fenced off and currently occupied by a 3-storey building for a RCHD, which provides rehabilitation dormitory service for people with mental disabilities and people recovering from mental illness at medium care level. It is a private RCHD with a Certificate of Exemption (CoE) until 31.10.2019 issued by the Social Welfare Department. The operation is currently undergoing rectification works on fire safety and building safety aspects so as to meet the requirements for a license under the Residential Care Homes (Persons with Disabilities) Ordinance. The

current application is submitted to meet the planning aspects of the licensing requirements. According to the applicant, the proposal is submitted on a temporary basis of 3 years as the Site is located within Yuen Long South, which is planned for public housing development.

- 1.3 The ground floor (G/F) of the building would be used for dormitory, kitchen and office. The first floor would be used for dormitory and the second floor would be used for dormitory and laundry room. Only private cars are allowed to enter/be parked at the Site. The floor plans of the RCHD submitted by the applicant are shown in **Drawings A-1** and **A-2**.
- 1.4 The major development parameters of the current application are summarised as follows:

<b>Site Area</b>	353m <sup>2</sup> (about)
<b>Total Floor Area (Domestic)</b>	206m <sup>2</sup> (about)
<b>No. and Height of Structures</b>	1 (8.23m, 3 storeys)
<b>No. of Beds</b>	26
<b>No. of Loading/Unloading Space</b>	1(7-seater car)
<b>Operation Hours</b>	24-hours daily

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

- (a) Application Form with Plans received on 3.5.2019 **(Appendix I)**
- (b) Supplementary Information received on 7.5.2019 providing information on access arrangement and surrounding environment **(Appendix Ia)**
- (c) Supplementary Information received on 9.5.2019 providing clarification on the nature of the application **(Appendix Ib)**
- (d) Further Information received on 3.6.2019 providing updated G/F Plan and legible copies of remaining drawings **(Appendix Ic)**  
*[accepted and exempted from publication and recounting requirements]*
- (e) Further Information received on 5.6.2019 providing clarification on the traffic arrangement **(Appendix Id)**  
*[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 Section 7 of the Application Form at **Appendix I** and supplementary information at **Appendices Ia** and **Ib**. They can be summarised as follows:

- (a) The Site is located in a remote area, fenced off and accessible by its own entrance.

Thus, it would not cause adverse impact on the surrounding neighbours.

- (b) A 7-seater car would be used to transport the occupants to and from the Site via Kung Um Road. The trip generation rate is about 4 times per day.
- (c) According to the applicant's observation, the surrounding warehouses did not cause noise nuisance to the RCHD as the loading/unloading activities were located at a distance and normally conducted for a short period of time in the morning. Also, the goods vehicles did not pass the RCHD.
- (d) The proposal is submitted on a temporary basis of 3 years as the Site is located within Yuen Long South, which is planned for public housing development.

### **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. 31A) by obtaining consent from the current land owner. Detailed information would be deposited at the meeting for Members' inspection.

### **4. Background**

The Site is currently not subject to planning enforcement action.

### **5. Previous Application**

The Site was not involved in any previous application.

### **6. Similar Application**

There is one similar application (No. A/YL-TYST/850) in the subject "U" zone for redevelopment of a social welfare facility (residential care home for the elderly) which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 6.4.2018 on the considerations that the proposed development was not in line with the planning intention of the "U" zone; the proposed development was incompatible with the surrounding area and domestic use should not be encouraged at the subject site; the proposed permanent use would jeopardise the long-term development of the area as recommended in the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation" (the YLS study); and the applicant failed to demonstrate that the development would not be subject to adverse environmental impacts nor create adverse sewerage impact on the surrounding area. Details of the application are at **Appendix II** and the location is shown on **Plan A-1**.

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

### 7.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east (**Plans A-2 and A-3**);
- (b) currently fenced off and occupied by a 3-storey building and garden (**Plans A-2, A-4a to A-4c**); and
- (c) currently occupied by the applied use without valid planning permission.

### 7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) comprise mainly warehouses, open storage/storage yards and vehicle repair workshops/services intermixed with scattered residential structures, orchard, parking of vehicles, a shop selling building materials, some vacant land/structures and agricultural land;
- (b) residential structures are found to the east, south and west of the Site;
- (c) there is a warehouse to the further north operated with valid planning permission under application No. A/YL-TYST/902. The aforesaid shop to the further southeast is also operating with valid planning permission under application No. A/YL-TT/440; and
- (d) except for the aforementioned operations operating under valid permission and a vehicle repair workshop to the immediate north of the Site, the other warehouses, open storage/storage yards, vehicle repairing workshops/services and parking of vehicles in the vicinity of the Site are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

## **8. Planning Intention**

The planning intention of the “U” zone is to cater for the continuing demand for open storage, which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development. The area is therefore zoned “U” pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

## **9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application received 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 is accessible to Kung Um Road via both unleased Government Land (GL) and adjoining private land. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site. The applicant must accordingly make his own arrangements for acquiring such right-of-way.
- (b) The Site is located on Lot 1504 S.B. in D.D. 119 (“the Lot”) and the Lot is covered by Building Licence No. 197 (“BL 197”) permitting the erection of a 3-storey building not exceeding 25ft in height and the built-over area of the building shall not exceed 700ft<sup>2</sup> for non-industrial purposes. The portion of the Lot which is not hereby permitted to be built upon shall continue to be used for agricultural purposes in accordance with the Block Government Lease.
- (c) Should planning approval be given to the subject planning application, for any structure(s) to be erected on any area of the Lot not permitted by BL 197, the landowner of the Lot should submit application to her office for a Short Term Waiver and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payments of waiver fee and administrative fee, as may be imposed by her department.

### **Traffic**

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

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

### **Long Term Development**

#### 9.1.4 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the YLS study. According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8 August 2017, the Site falls within an area zoned as “Residential - Zone 1 (Subsidised Sale Flats with Commercial)” (“R1(SSF)c”).
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

#### 9.1.5 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) However, the Site falls within the project boundary of the proposed YLS Development - Stage 2. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong. The applicant is reminded that extension of the planning permission may not be supported in the future when the detailed implementation programme of works at the Site under YLS Development - Stage 2 is formulated.

#### 9.1.6 Comments of the Director of Housing (D of Housing):

- (a) The Site is located within an area zoned “R1(SSF)c” on the RODP of YLS which has been promulgated with an Information Digest on 8.8.2017. As such, the Government has already indicated the planning intention of the Site to the public (including Yuen Long District Council, Shap Pat Heung and Ping Shan Rural Committees) in September 2017.
- (b) The application is on temporary basis for a period of 3 years. Since the Site will be required by CEDD for site formation and infrastructure works to facilitate the public housing development, CEDD should be consulted to ascertain whether there will be any clash with the implementation programme. His department has no objection to the proposal under application provided that it would not affect the implementation programme of the public housing development.

### **Environment**

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

According to the applicant, the proposed use is not subject to noise nuisances from surrounding area. The applicant is reminded to implement the mitigation measures in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) issued by the Environmental Protection Department as appropriate to minimise the potential nuisances from the surrounding area if any.

### **Social Welfare**

#### 9.1.8 Comments of the Director of Social Welfare (DSW):

- (a) She has no adverse comment on the application from the licensing point of view.
- (b) The Joyful House (Rehabilitation Dormitory) (the Home) has been operating as a RCHD since June 2010 before the commencement of the Residential Care Homes (Persons with Disabilities) Ordinance, Cap 613. The Home is currently operated under a CoE valid until 31.10.2019 with conditions of improvements for full compliance with the licensing requirements, including seeking planning permission to use the subject premises for operating the RCHD. The Home has been granted the funding application namely Financial Assistance Scheme for carrying out rectification works on fire safety and building safety items for meeting the licensing requirement; the works will soon be completed.

### **Drainage**

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

- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and implementation and maintenance of the drainage proposal to the satisfactions of the Director of Drainage Services or of the Board should be stipulated.

### **Fire Safety**

#### 9.1.10 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to water supplies for firefighting and 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. In addition, the applicant should also be advised on the following points:
  - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
  - (ii) The location of where the 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 Buildings Ordinance (BO) (Cap. 123) or licence is required for the subject RCHD, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

### **Building Matters**

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (c) 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with 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.
- (g) If the proposed use under application is subject to issue of a license, the applicant should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

### **District Officer's Comments**

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

She has no comment on the application and has not received any locals' comment on the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Commissioner of Police (C of P); and
- (e) Director of Food and Environmental Hygiene (DFEH).

## **10. Public Comment Received During Statutory Publication Period**

On 10.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 31.5.2019, one public comment was received (**Appendix III**) supporting the application without further justification.

## **11. Planning Considerations and Assessments**

11.1 The subject application is for a temporary social welfare facility (RCHD) for a period of 3 years at a Site zoned "U" on the OZP. The planning intention of the "U" zone is generally for open storage use but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. Although the applied use is not in line with the planning intention of the "U" zone, DSW has no adverse comment on the application from the licensing point of view. The RCHD is currently operated under a CoE valid until 31.10.2019. The operator is currently applying for a proper license which comes with the conditions to fully comply with the relevant technical requirements, including seeking planning permission to use the subject premises for operating the RCHD. Whilst the Site falls within an area zoned as "R1(SSF)c" on the RODP of YLS promulgated on 8.8.2017, CE/CID of PlanD does not raise objection to the application and D of Housing and PM(W) of CEDD have no objection to the proposed temporary use for 3 years. As such, approval of the application on a temporary basis for three years would not jeopardise the long-term

development of the area.

- 11.2 Although the Site is located within an area mainly comprising warehouses, open storage/storage yards and vehicle repair workshops/services intermixed with scattered residential structures, orchard, parking of vehicles, some vacant land/structures and agricultural land; residential developments are located to its immediate east, south and west (**Plan A-2**). The applied use is considered not incompatible with the existing uses in the immediate surrounding areas.
- 11.3 Relevant departments consulted including C for T, CE/MN, DSD and D of FS have no objection to the application. The RCHD is currently operating with a CoE valid until 31.10.2019. Thereafter, a proper licence would need to be obtained under the Residential Care Home (Persons with Disabilities) Ordinance to continue the operation. As part of the licensing requirement, the operation would need to fully comply with relevant technical requirements. The RCHD has been granted funding under the Financial Assistance Scheme, for carrying out rectification works on fire safety and building safety aspects for meeting the licensing requirement. The rectification works are nearing completion and only the planning aspect is pending. In this connection, DSW has no adverse comment on the application. Moreover, significant adverse traffic and drainage impacts on the surrounding areas and fire safety concern are not anticipated. To address the technical requirements of concerned government departments, relevant 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 UD on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to implement the mitigation measures to minimise the potential nuisances from the surrounding area, if any.
- 11.4 There is one similar application within the subject “U” zone for permanent redevelopment of a social welfare facility (residential care home for the elderly) (No. A/YL-TYST/850) which was rejected by the Committee on the considerations, amongst others, that the proposed permanent use would jeopardise the long-term development of the area as recommended in the YLS Study and that the applicant had failed to demonstrate that the development would not be subject to adverse environmental impacts nor create adverse sewerage impact on the surrounding area. However, such considerations are not applicable to the current application for temporary use of the Site for 3 years and relevant departments have no adverse comments/objection to the proposed use.
- 11.5 There was one supporting comment on the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary social welfare facility (residential care home for persons with disabilities) 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 21.6.2022. 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 be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) all existing trees with the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 21.12.2019;
- (e) in relation to (d) above, the implementation of the 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 21.3.2020;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of proposals for water supplies for firefighting and fire service installations 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 21.12.2019;
- (h) in relation to (g) above, the implementation of the proposals for water supplies for firefighting and 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 21.3.2020;
- (i) if any of the above planning conditions (a), (b), (c), or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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.

Advisory clauses

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

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

the development is not in line with the planning intention of the "U" zone which is primarily intended for open storage use. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

**13. Decision Sought**

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

**14. Attachments**

<b>Appendix I</b>	Application Form with Plans received on 5.3.2019
<b>Appendix Ia</b>	Supplementary Information received on 7.5.2019 providing information on access arrangement surrounding environment
<b>Appendix Ib</b>	Supplementary Information received on 9.5.2019 providing clarification on the nature of the application
<b>Appendix Ic</b>	Further Information received on 3.6.2019 providing updated G/F Plan and legible copies of remaining drawings
<b>Appendix Id</b>	Further Information received on 5.6.2019 providing clarification on the traffic arrangement
<b>Appendix II</b>	Similar Application within the subject "U" Zone on the OZP
<b>Appendix III</b>	Public Comment received during the statutory publication period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Ground Floor Plan of the RCHD
<b>Drawing A-2</b>	First and Second Floor Plan of the RCHD
<b>Plan A-1</b>	Location Plan

<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4c</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2019**