

RNTPC Paper No. A/YL/250
For Consideration by
the Rural and New Town
Planning Committee
on 16.11.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/250

- Applicant** : Sunny Well Investment Ltd. represented by Mr KWOK Chi Man
- Site** : Lot 2078 RP (Part) in D.D.116 and adjoining Government Land, Ha Yau Tin Tsuen, Yuen Long, New Territories
- Site Area** : About 170 m² (including Government Land of about 32 m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Yuen Long Outline Zoning Plan No. S/YL/23
- Zoning** : “Village Type Development” (“V”)
[Restricted to maximum building height of 3 storeys (8.23m) or the height of the existing building whichever is the greater]
- Application** : Proposed Temporary Shop and Services (Beauty Parlour with Ancillary Office) for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the ‘Site’) for proposed temporary shop and services (beauty parlour with ancillary office) for a period of 6 years. The Site falls within an area zoned “V” on the approved Yuen Long OZP No. S/YL/23 (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a vacant structure with internal fitting-out works being carried out and was not involved in any previous application (**Plans A-2 and A-4a to 4b**).
- 1.2 The Site is situated at Ha Yau Tin Tsuen and is accessible via Yau Tin West Road. According to the applicant, the proposed 2-storey building structure will offer beauty services such as skin care, hair styling and nail art services, with ancillary office on ground floor, and ancillary storage on the first floor. There will be 7 to 8 working staff and the business hours will be from 9 a.m. to 7 p.m. daily. No parking space is proposed on the Site. Plans showing the site layout, vehicular access and section submitted by the applicant are at **Drawings A-1 to A-2** respectively.

1.3 The major development parameters are as follows:

Site Area	About 170m ² (including about 32m ² of Government Land)
Applied Use	Proposed Shop and Services (Beauty Parlour with Ancillary Office) for a Period of 6 Years
Maximum Floor Area (non-domestic)	171m ²
No. of Structures	1
Maximum Height of Structure	2 storeys (7m)
Operation Hours	9:00 a.m. to 7:00 p.m. daily (including Sundays and public holidays)

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

- (a) Application form received on 18.9.2018 with location plan, vehicular access plan, sectional plan and supplementary information received on 24.9.2018 **(Appendix I)**
- (b) Further Information received on 30.10.2018 in response to public comments (*accepted and exempted from publication and recounting requirements*) **(Appendix Ia)**

2. Justifications from the Applicant

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

- (a) The proposed temporary use will not jeopardise the long term planning intention of “V” zone and the proposed use is not incompatible with the surroundings of the Site.
- (b) The proposed development is clean, tidy and non-polluting as well as not creating nuisance and not affecting the character of the village.
- (c) No adverse impact is anticipated on the surrounding environment. The Site is well-equipped with electricity and water supplies. Land filling, tree felling, water resource obstruction activity and other operations affecting the surrounding environment are not proposed.
- (d) No parking space is proposed on the Site, staff and customers will access the Site by public transport and there will be no logistic operation involved. Hence,

no adverse traffic impact is anticipated.

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 Member’s inspection.

4. Previous Application

The Site is not the subject of any previous application.

5. Similar Application

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

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

6.1 The Site is:

- (a) currently occupied by a vacant building structure with internal fitting-out works being carried out; and
- (b) accessible from Yau Tin West Road.

6.2 The surrounding areas have the following characteristics:

- (a) generally residential use in nature;
- (b) to its east across Yau Tin West Road lies a nullah;
- (c) to its north and west are scattered with residential structures and two site offices within the village cluster of Ha Yau Tin Tsuen;
- (d) to its south are a warehouse, an open storage yard for converted containers and some residential structures; and
- (e) to its further south are plots of unused land and a refuse collection point zoned “Open Space” (“O”).

7. Planning Intention

The planning intention of “V” zone is to reflect existing recognised 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 villages. It is also intended to

concentrate village type development within this 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 area always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1 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) No permission is given for occupation of government land (GL) (about 32m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible from Yau Tin West Road via GL. Her office does not provide maintenance work for 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.
- (e) Should planning approval be given to the subject planning application, the lot owners(s) will need to apply to her office to permit the structures to be erected or regularise any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Further, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by the Lands Department acting in the capacity of the landlord or lessor at its sole discretion 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 payment of

premium or fee, as may be imposed by LandsD.

- (f) According to her record, there is no Small House (SH) application received or under processing at the Site. There are 8 approved SH applications and 1 SH application received and under processing within 30m radius circle measured from the boundary of the Site.
- (g) Regarding the public comment on the land/legal status of the existing structure on site, her office will take appropriate land control and lease enforcement actions for any irregularities detected under the existing policy and mechanism.

Traffic

8.1.2 Comments of the Commissioner for Transport, Transport Department (C for T, TD):

Given that no car parking spaces are provided within the Site and no vehicular ingress/egress to the Site is proposed by the applicant, he has no comment on the planning application from the traffic engineering point of view.

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

- (a) The proposed access arrangement of the Site from Yau Tin West Road should be commented by TD.
- (b) His department does not and will not maintain any access (including Yau Tin West Road) connecting the Site and Long Ho Road, Fung Cheung Road or Yuen Lung Street. The applicant should be responsible for his own access arrangement. Presumably, the relevant departments will provide their comments, if any.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

8.1.4 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) Nevertheless, he would like to remind the applicant that effluent discharges from the proposed use are subject to control under the

Water Pollution Control Ordinance (WPCO). A discharge license under the WPCO should be obtained before a new discharge is commenced. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.

Landscape

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

- (a) With reference to the aerial photo of 2018, the Site is situated in an area of village landscape character. It is almost completely occupied by an existing structure. Significant change to the landscape character arising from the application is not envisaged.
- (b) In consideration that existing trees are observed along the public frontage, imposing a landscape condition which aims at improving the public realm would not be necessary.

Drainage

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

He has no objection in principle to the proposed development from the public drainage point of view. Should the application be approved, the applicant should submit a drainage proposal, to implement and thereafter maintain the implemented proposal to the satisfaction of the Director of Drainage Services or of the Board.

Building Matters

8.1.7 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, his office is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are unauthorized building works (UBW) under Buildings Ordinance (BO) and should not be designated for any proposed use under the application.

- (ii) For UBW erected on leased land, enforcement action may be taken by 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 BO.
- (iii) 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 BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (v) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

8.1.8 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 his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) 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, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Others

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

Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the Study). The Site falls within the “Study Area” of YLS but outside the development area of YLS. There is no adverse comment on the application from the perspective of the Study.

District Officer’s Comments

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

His office has not received any comments from the village representatives in the vicinity.

8.2 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) Commissioner of Police (C of P);
- (d) Project Manager (West), CEDD (PM(W), CEDD);
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (g) Director of Electrical and Mechanical Services (DEMS).

9. Public Comments Received During Statutory Publication Period

On 28.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 19.10.2018, a total of 8 public comments were received (**Appendices II-1 to 8**). A Yuen Long District Councillor, the village representatives of Ha Yau Tin Tsuen, and other private individuals objected to the application mainly on the grounds of the potential adverse impacts on the transport network of the area and the surrounding environment; lacking of environmental and fire safety assessments; taking up of land in the “V” zone available for SH/NTEH developments; and causing environmental nuisances and security problem to the residents living in the vicinity.

10. Planning Considerations and Assessments

10.1 The subject application is for temporary shop and services (beauty parlour with ancillary office) for a period of 6 years on the Site which is zoned “V” on the

OZP. 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. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. Although the development under application is not entirely in line with the planning intention of the “V” zone, the proposed beauty parlour could provide shop and services to serve any such demand in the area. According to DLO/YL of LandsD, there is currently no Small House application under processing by her office at the Site. In this regard, approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone.

- 10.2 The proposed beauty parlour with ancillary office is not incompatible with the surrounding land uses which are rural in character comprising mainly residential uses, and a warehouse and an open storage yard (**Plan A-2**).
- 10.3 Relevant government departments, including DEP, C for T, CE/MN, DSD, D of FS and CTP/UD&L, PlanD, have no objection to or adverse comment on the application. Adverse environmental, traffic, drainage, fire safety and landscape impacts are not anticipated. To minimize any potential adverse impacts and nuisance on the surrounding areas or to address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 11.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 10.4 There are eight public comments mainly objecting to the application received on the grounds as summarised in paragraph 9. The planning considerations and assessments above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 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 6 years until 16.11.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 16.5.2019;
- (c) in relation to (b) 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 16.8.2019;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.5.2019;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.8.2019;
- (g) if any of the above planning conditions (a) 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
- (h) if any of the above planning conditions (b), (c), (e) or (f) 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 III**.

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

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 this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application form with plans received on 18.9.2018 with location plan, vehicular access plan, sectional plan and supplementary information received on 24.9.2018
Appendix Ia	Further Information received on 30.10.2018 in response to public comments
Appendices II-1 to 8	Public comments received during the Statutory Publication Period
Appendix III	Recommended Advisory Clauses
Drawing A-1	Location, site layout, and vehicular access plan
Drawing A-2	Sectional plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**