

RNTPC Paper No. A/YL-NSW/291
For Consideration by
the Rural and New Town
Planning Committee
on 10.9.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/291

<u>Applicant</u>	: Mr. CHEUNG Chun Yiu represented by Miss WAI Siu Yiu
<u>Site</u>	: Lots 605 RP (Part), 606 RP (Part) and 607 RP in D.D. 115, Nam Sang Wai, Yuen Long
<u>Site Area</u>	: About 2,570 m ²
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Temporary Agricultural Use (Green Houses) with Ancillary Store Rooms and Rest Rooms for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary agricultural use (green houses) with ancillary store rooms and rest rooms for a period of 3 years. The Site falls within an area zoned “U” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan A-1**). According to the covering Notes of the OZP, any use or development in the “U” zone, except those specified as always permitted under the covering Notes, requires planning permission from the Town Planning Board (the Board). The Site is currently fenced off and occupied by the applied use without planning permission.
- 1.2 According to the layout plan (**Drawing A-1**) submitted by the applicant, the ingress/egress (about 3m wide) to the Site is located at the eastern part of the Site, which is accessible from Long Fai Road and Yuen Long Tung Shing Lei Road via a local access road. The development comprises 12 single-storey structures (not exceeding 4.5m in height with a gross floor area of 851m²), including 2 structures for green houses, 8 structures for store rooms and 2 structures for rest rooms. 2 light goods vehicle parking spaces (3m x 5m) are provided at the Site. The operation hours are 6:00 a.m. to 7:00 p.m. from Mondays to Sundays including public holidays.

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

- (a) Application form received on 21.7.2021 (Appendix I)
- (b) Further Information (FI) received on 1.9.2021 providing responses to departmental comments* (Appendix Ia)

*Remarks: * 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 **Appendices I and Ia**. They can be summarised as follows:

- (a) The green houses and other structures at the Site were erected for growing organic black tomatoes for the local market. The ancillary rest rooms are to provide resting area for staff during operation hours. They will not be used for domestic purpose and there will be no overnight accommodation at the Site.
- (b) Only light goods vehicle and private car are allowed to access the Site. The development would not generate adverse environmental impact and would not involve pond filling.

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

The applicant is not the “current land owner” of the Site and 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

- 4.1 The Site falls within the “U” zone (26.3 ha) south of the Yuen Long Highway (**Plan A-1**) and has been zoned “U” on the draft Nam Sang Wai OZP No. S/YL-NSW/1 since 3.6.1994. It was so designated as several major transport and drainage projects, including Yuen Long Highway, MTR West Rail (WR) and Yuen Long Bypass Floodway (YLBf), which were under planning at that time, would traverse the area.
- 4.2 Following the completion of the infrastructure projects of Yuen Long Highway, WR and YLBf, and upon preliminary review, the subject “U” zone is considered to have potential for housing developments and other uses. According to the 2017 Policy Address, the subject “U” zone is one of the potential sites for public housing development in the short to medium term. The detailed land use proposal and appropriate development parameters are being examined under the “Agreement No. CE 55/2020 (CE) – Site Formation and Infrastructure Works for Housing

Developments at Tung Shing Lei, Au Tau, Kam Tin and Yuen Long Tai Yuk Road, Yuen Long – Feasibility Study” (the Study) undertaken by the Civil Engineering and Development Department (CEDD).

- 4.3 The site investigation in June 2021 revealed that a green house was erected on the Site. If there is sufficient evidence to prove unauthorised development on Site under the Town Planning Ordinance, enforcement action would be instigated against it.

5. Previous Application

The Site forms part of a previous application (No. A/YL-NSW/105) submitted by another applicant for proposed residential development which was rejected by the Rural and New Town Planning Committee (the Committee) on 5.10.2001 (**Plan A-1**). Details of the application are at summarised at **Appendix II**.

6. Similar Application

There is no similar application for agricultural use within the subject “U” zone on the OZP.

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

7.1 The Site is:

- (a) accessible from Long Fai Road and Yuen Long Tung Shing Lei Road via a local access road to its east (**Plan A-2**); and
- (b) partly a pond and partly occupied by the applied use without planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are a pond and open storage of vehicles. To its northeast are storage/open storage yards for vehicles and vehicle parts;
- (b) to its east and southeast are scattered residential dwellings, storage use, unused land and ponds;
- (c) to its south and southwest are scattered residential dwellings, agricultural land and some vacant/unused land; and
- (d) to its west are Long Fai Road and YLBF. Further west across YLBF is a pond.

8. Planning Intention

The “U” zone is subject to impacts from Castle Peak Road, Yuen Long Highway, WR and YLBF. Under the “U” zone, any developments or redevelopments require planning permission from the Board so as to ensure the environment would not be adversely affected and that infrastructure, GIC facilities, and open space are adequately provided. The proposed development should also take into account the WR and YLBF. To realise a built-form which represents a transition from Yuen Long New Town to the rural area, the development intensity should take into account the urban type developments immediately to the west of the “U” zone and the rural characteristics of the area to its north. Development within the areas has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and thus jeopardising the long-term planning intention of the areas.

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, LandsD (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Should planning approval be given to the application, the lot owners will need to apply to his office to permit the structures to be erected or regularise any irregularities on Site, if any. Besides, given the applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) The Site is connected to the public road network via a section of local access which is not managed by the Transport Department (TD). The land status of the local access should be checked with LandsD by the applicant. Moreover, the management and

maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.

- (b) He has no comment on the application from traffic engineering perspective. Should the application be approved, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) Yuen Long Tung Shing Lei Road is not maintained by HyD.
- (b) The proposed access arrangement of the Site from Long Fai Road/ Long Shing Road should be approved by TD.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Long Fai Road/ Long Shing Road.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

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

He has no comment from railway development point of view as the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any rail systems.

Environment

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

The applicant is advised to follow the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by DEP.

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site is located to the east of Long Fai Road and to the northwest of Tung Shing Lei. With reference to the aerial photo, the Site is situated in an area of miscellaneous urban fringe landscape

character comprising temporary structures, village houses, ponds, drainage channel and scattered tree groups. The development is considered not entirely incompatible with the surrounding landscape setting.

- (c) According to the site photos, the Site is fenced off, partly paved with existing temporary structures in operation as the applied use. A pond is observed within the northern portion of the Site. There are existing trees and some tree groups of common species along the periphery of the Site. According to the applicant's submission, the structures are not in direct conflict with the existing trees and pond, significant adverse impact arising from the development on the existing landscape resources is not anticipated.
- (d) In view that there is no major public frontage along the site boundary and existing trees are found along the site boundary for screening, it is considered not necessary to impose a landscape condition should the Board approve the subject application. His advisory comment to the applicant are at **Appendix IV**.

Nature Conservation

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

According to his office's record, he has not received any application for Letter of Approval for erecting agricultural structures from the Site. He has no comment on the application.

Drainage

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

- (a) He has no objection in principle to the development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring (i) the submission of a drainage proposal; and (ii) the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.
- (c) There is no public sewer connection available in the vicinity. The applicant shall seek views and comments from DEP regarding the sewage disposal arrangement of the development.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The 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; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if any proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.10 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, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained. Otherwise they are unauthorised building works (UBW) under the Buildings Ordinance (BO). An Authorised Person 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 BD to effect their removal in accordance with the prevailing 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.
- (c) His detailed comments are at **Appendix IV**.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Commissioner of Police;
- (c) Project Manager (West), CEDD;
- (d) Head of Geotechnical Engineering Office, CEDD;
- (e) Head of Civil Engineering Office, CEDD; and

- (f) District Officer (Yuen Long), Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

On 27.7.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 17.8.2021, 1 comment was received from Kadoorie Farm and Botanic Garden Corporation (**Appendix III**) urging the Board to consider whether there has been unauthorised pond filling at the Site.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary agricultural use (green houses) in the “U” zone which was so designated as several major transport and drainage projects, including WR and YLBF, which were under planning at that time, would traverse the area. The above infrastructure projects have been completed. The subject “U” zone has been identified in the 2017 Policy Address with potential for housing development. The detailed land use proposal and appropriate development parameters for the “U” zone are subject to further study. As the long term use of the “U” zone is subject to study, approval of the proposed temporary use for a period of 3 years would not jeopardise the long term land use planning for the area.
- 11.2 The applied agricultural use is not incompatible with the surrounding land uses and the urban fringe landscape character comprising residential dwellings, ponds and drainage channel.
- 11.3 The development would unlikely cause significant adverse traffic, environmental, drainage, fire safety and landscape impacts on the area. There are no adverse comments from the concerned departments including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD. Should the application be approved, approval conditions on traffic, drainage and fire safety requirements are recommended in paragraphs 12.2 (a) to (f) below. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest COP to minimise any potential environmental impacts.
- 11.4 The Site is the subject of a previous application for proposed residential development which was rejected in 2001. The current application is of a different nature.
- 11.5 For the public comment regarding suspected unauthorised pond filling, it should be handled by the Planning Authority and paragraph 4.3 above is relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.

- 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 10.9.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) the submission of 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 10.3.2022;
- (c) in relation to (b) 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 10.6.2022;
- (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 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 10.3.2022;
- (f) in relation to (e) 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 10.6.2022;
- (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 IV**.

- 12.3 There is no apparent reason to reject the application.

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

Appendix I	Application form received on 21.7.2021
Appendix Ia	FI received on 1.9.2021
Appendix II	Previous Application
Appendix III	Public comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**