

RNTPC Paper No. A/YL-PH/884
For Consideration by
the Rural and New Town
Planning Committee
on 9.7.2021

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

APPLICATION NO. A/YL-PH/884

<u>Applicant</u>	: Mr. LAI Eduardo Fernando
<u>Site</u>	: Lot 1663 RP (Part) in D.D. 111, Leung Uk Tsuen, Pat Heung, Yuen Long
<u>Site Area</u>	: 521m ² (About)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Village Type Development” (“V”) [Maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary site office for a period of 3 years. The applied use is neither a Column 1 nor Column 2 use for the “V” zone. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for office with valid planning permission (**Plans A-2 to A-4**). All the approval conditions of the last approved application (No. A/YL-PH/785) have been complied with and the planning permission is valid until 20.7.2021.
- 1.2 According to the applicant, the temporary site office involves one two-storey (5.2m in height) structure with floor area of 148.64m². One private car parking space is provided within the Site. The operation hours are between 9:00a.m. and 6:00p.m. from Mondays to Saturdays, and there is no operation on Sundays and

public holidays. No repair work or workshop activities will be carried out on-site, and the development will not involve vehicles exceeding 5.5 tonnes. The Site is accessible from Kam Tin Road via a local track. The Site layout plans as submitted by the applicant is at **Drawings A-1 and A-2**.

- 1.3 When compared with the last approved application (No. A/YL-PH/785), the current application submitted by the same applicant is the same in terms of applied use, site area / boundary and layout but will accommodate one private car parking space for serving the staff's commuting need (**Drawing A-2**).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form and supplementary information (**Appendix I**) received on 21.5.2021
 - (b) Further information (FI) received on 25.6.2021 and (**Appendix Ia**) 28.6.2021 in response to departmental comments
(*exempted from publication requirement*)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The conditions and nature of the use are the same as the previous application No. A/YL-PH/785.
- (b) The applicant owns a landscaping company which is a major landscaping company operating in Hong Kong. It is currently contracted with a number of Government landscaping projects and private sector works. The office provides an administration and logistics centre in support of the public works projects.
- (c) The operation of the Site has not disturbed the neighbourhood nor caused any form of pollution. Drains have been laid at the Site and hence no flooding will occur. Fire service installations were in place. Besides, the Site has been landscaped and there are several trees by the road and no trees will be felled. As such, the applied use will not result in any adverse impact on ecology, environment and the nearby residents.
- (d) There will be no repair works, storage and workshop activities within the Site, and no vehicles over 5.5 tonnes will be involved.

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 land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

5. Background

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

6. Previous Applications

- 6.1 The Site was involved in 8 previous planning applications for temporary open storage and temporary site office uses. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.
- 6.2 Two applications (No. A/YL-PH/259 and 313) with a larger site area for temporary open storage of left-hand drive vehicles prior to sale were approved with conditions by the Committee in 1999 and 2000 mainly on the grounds that the developments were considered acceptable in view of the nature of the items stored and that no workshop use was involved; direct access to Kam Tin Road

was provided and traffic generated from the developments would not pass through major village settlement in the area and would unlikely induce adverse traffic and environmental impacts on the surrounding areas; and there was no adverse comments from Government departments and no local objection from the villagers. However, Application No. A/YL-PH/313 was revoked on 14.10.2000 due to non-compliance with approval condition.

- 6.3 Six applications (No. A/YL-PH/434, 522, 584, 643, 717 and 785) for temporary site office and submitted by the same applicant as the current application were approved with conditions by the Committee between 2003 and 2018 on similar reasons that there was no Small House application at the site; no repairing works would be carried out on-site; the proposed temporary site office was not incompatible with the neighbouring use in the area and would unlikely induce adverse environmental impact to the immediate surroundings; and there were generally no adverse comment from Government departments and no local objection.
- 6.4 For the last application (No. A/YL-PH/785) for the same applied use as the current application and submitted by the same applicant, all the approval conditions have been complied with and the planning permission is valid until 20.7.2021.

7. Similar Application

There is one similar application (No. A/YL-PH/787) for temporary site office within the same “V” zone (straddling partly with the adjoining “Open Storage” (“OS”) zone) on the Pat Heung OZP. The application was approved with conditions by the Committee in 2018 mainly on similar grounds as stated in paragraph 6.3 above. Details of this application are summarized in **Appendix III** and its location is shown on **Plan A-1a**.

8. The Site and Its Surrounding Areas (Plans A-2 to A-4)

8.1 The Site is:

- (a) currently used for the applied use with valid planning permission;
and
- (b) accessible via a local track leading to Kam Tin Road.

8.2 The surrounding areas are rural in character intermixed with residential structures / dwellings, and some open storage / storage yard, workshop and vacant / unused land:

- (a) to the south and east in the “V” zone and to the west in the adjacent “Agriculture” (“AGR”) zone are mainly residential structures / dwellings and a few open storage yards; and

- (b) to the north across Kam Tin Road in the “OS” zone are residential structures / dwellings, open storage / storage yards, workshop and vacant / unused land.

9. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. 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 are 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.

10. Comments from Relevant Government Departments

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Scheduled 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) Lot 1663 RP in D.D. 111 is covered by Short Term Waiver (STW) No. STW3123 for office and greenhouse use.
- (c) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application 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 the LandsD.

- (d) There is no Small House application approved or under processing within the Site.

Traffic

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

- (a) He has no comment on the renewal application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

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

Environment

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

- (a) There was no environmental complaint concerning at the Site in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.

Landscape

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

The applicant is advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works.

Nature Conservation

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

Noting that the Site has been paved and is involved in a number of previous applications approved by the Board, he has no comment on the application from nature conservation point of view.

Drainage

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

- (a) He has no objection in-principle to the development.
- (b) Apparently, the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-PH/785.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under Application No. A/YL-PH/785 and submission records of the existing drainage facilities on the Site should be included.

Fire Safety

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

He has no in-principle objection to the renewal application subject to the existing fire service installations (FSIs) implemented on site being maintained in efficient working order at all times.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the structures at the Site. He is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers / open shed as temporary buildings) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (c) His detailed comments on UBW and provision of access are at **Appendix IV**.

Electricity Safety

10.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no comment on the application from electricity supply safety point of view.
- (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

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

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

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

- (a) Chief Engineer/ Construction, Water Supplies Department;
- (b) Project Manager (West), Civil Engineering and Development Department; and
- (c) Commissioner of Police.

11. Public Comment Received During Statutory Publication Period

On 28.5.2021, the application was published for public inspection. During the three-week statutory publication period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission for temporary site office for a period of 3 years in the “V” zone. 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 reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The proposed use is not entirely in line with the planning intention of “V” zone. Nevertheless, DLO/YL of LandsD advises that there is no Small House application approved or under processing at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The development is considered not incompatible with the surrounding land uses which are rural in character intermixed with residential structures / dwellings, open storage / storage yard, workshop and vacant / unused land.
- 12.3 The application is in line with the TPB PG-No. 34C in that the previous approval for the same applied use was granted in 2018 and all the approval conditions of the previous approved application (No. A/YL-PH/785) have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of applied use, site area / boundary and layout but will accommodate one private car parking space for use of its staff. Besides, there is no major change in planning circumstances since the last approval.

- 12.4 Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no comment on the application. To minimize the possible environmental nuisance, approval conditions restricting the operation hours, types of vehicles and prohibiting workshop activities are recommended in paragraphs 13.2(a) to (d) below. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by imposing approval conditions (e) to (h) in paragraph 13.2 below.
- 12.5 Apart from the previous approvals for the same applied use granted for the Site, there is one similar application (No. A/YL-PH/787), with its site fell partly within the same "V" zone and partly within the adjoining "OS" zone, approved by the Committee in 2018. Approval of the current application is in line with the Committee's previous decision.
- 12.6 No public comment was received during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary open storage of construction materials could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years, and be renewed from 21.7.2021 until 20.7.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the Site should only be used as office and no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;

- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 21.10.2021;
- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) if any of the above planning condition (a), (b), (c), (d), (e), (f) or (h) 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;
- (j) if the above planning condition (g) 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
- (k) upon 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.

[The above planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-PH/785, except deletion / change of those on landscape and FSIs based on the comments of CTP/UD&L of PlanD and D of FS.]

Advisory Clauses

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

- 13.3 There is no strong reason to recommend rejection of the renewal application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15 Attachments

Appendix I	Application Form and Supplementary Information received on 21.5.2021
Appendix Ia	FI received on 25.6.2021 and 28.6.2021
Appendix II	Previous s.16 Applications covering the Site
Appendix III	Similar Application within the Same “V” and Straddling the “OS” Zone on the Approved Pat Heung OZP
Appendix IV	Advisory Clauses
Drawings A-1 and A-2	Layout Plans
Plan A-1a	Location Plan with Similar Application
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2021**