

RNTPC Paper No. A/YL-KTN/715A
For Consideration by
the Rural and New Town
Planning Committee
on 20.11.2020

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

APPLICATION NO. A/YL-KTN/715

- Applicant** : Bright Strong Limited represented by Grandmax Surveyors Limited
- Site** : Lots 1555 S.A (Part), 1555 S.B RP (Part), 1557 RP (Part), 1558 (Part) and 1559 (Part) in D.D. 107, Kam Tin, Yuen Long
- Site Area** : About 9,763m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Comprehensive Development Area (1)” (“CDA(1)”) [restricted to a maximum plot ratio of 1.2 and a maximum building height of 16 storeys]
- Application** : Proposed Temporary Site Office and Plant Nursery with Ancillary Open Storage of Building Materials, Tools and Equipment, Landscaping Equipment and Hardware and Ancillary Staff Car Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary site office and plant nursery with ancillary open storage of building materials, tools and equipment, landscaping equipment and hardware and ancillary staff car park for a period of 3 years to support a comprehensive private residential development (i.e. Park Yoho) until its completion. According to the covering Notes of the OZP, provision of plant nursery is always permitted on land falling within the OZP. The proposed site office and ancillary open storage and staff car park are neither Column 1 nor Column 2 uses in the “CDA(1)” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 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 site office and open storage without planning permission (**Plans A-2 to A-4b**).

- 1.2 The Site is subject to two previous applications, both submitted by the applicant of the current application. Application No. A/YL-KTN/575 for temporary site office with ancillary open storage of building materials, storage of repairing tools and staff car park was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years in 2018. The planning permission was revoked in April 2020 due to non-compliance of approval conditions. Application No. A/YL-KTN/604 (covering the whole “CDA(1)” zone) for comprehensive residential development was approved with conditions by the Committee in 2019.
- 1.3 According to the applicant, the applied use involves 9 one-storey structures/canopy for site office, storage, resting area, guard house and toilet and 12 one-storey converted containers for site office and storage. The open storage area is about 1,125m² (i.e. 11.5% of the Site) and the plant nursery is about 2,895m² (i.e. 29.7% of the Site).
- 1.4 The development will be operated from 8:00am to 7:00pm from Mondays to Saturdays. There is no operation on Sundays and public holidays. 10 private car parking spaces will be provided on-site. The Site is accessible to Castle Peak Road - Tam Mi via a local track. The layout plan submitted by the applicant is at **Drawings A-1**.
- 1.5 Compared with the previous approved application No. A/YL-KTN/575, the current application is submitted by the same applicant for similar use, with the following major differences:

Major Proposed Development Parameters	Last Approved Application (No. A/YL-KTN/575) (a)	Proposed Use (Current Application) (b)	Difference (a) – (b)
Total Site Area	About 9,763m ²	About 9,763m ²	No Change
Proposed Uses	Temporary Site Office with Ancillary Open Storage of Building Materials and Staff Car Park for a Period of 3 Years	Temporary Site Office and Plant Nursery with Ancillary Open Storage of Building Materials, Tools and Equipment, Landscaping Equipment and Hardware and Ancillary Staff Car Park for a Period of 3 Years	Addition of plant nursery and ancillary open storage of tools, equipment, landscaping equipment and hardware

No. of Structures (including canopy, enclosed structures and containers)	68	21	- 47 (- 69.1%)
Height	2.59m – 3m (1 storey)	2.59m – 5m (1 storey)	+2m (+66.7%)
Total Floor Area	About 2,927m ²	About 2,603m ²	-324m ² (-11.1%)
No. of Parking Spaces	19	10	-9 (47.4%)
No. of Loading/ Unloading Bays	2	2	No change

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

- (a) Application form received on 26.5.2020 **(Appendix I)**
- (b) Planning Statement and plans **(Appendix Ia)**
- (c) Further Information (FI) received on 22.9.2020 in response to departmental comments **(Appendix Ib)**
[not exempted from publication requirement]
- (d) FI received on 28.10.2020 in response to departmental comments **(Appendix Ic)**
[exempted from publication requirement]
- (e) FI received on 12.11.2020 in response to departmental comments **(Appendix Id)**
[exempted from publication requirement]

1.7 At the request of the applicant, the Committee on 1.9.2020 agreed to defer making a decision on the application to allow time for the applicant to address departmental comments. After the deferral request, the applicant has submitted FI in response to departmental comments. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement in **Appendix Ia**. They can be summarized as follows:

- (a) The proposed use is essential for providing follow-up repairing/replacing works and landscaping works of the adjoining residential development, Park Yoho. The site office is also necessary to monitor/ supervise the construction of Park Yoho until its entire completion. While the manpower for monitoring and supervising as well as for providing essential follow-up works to Park Yoho decreases correspondingly as construction activities reduce, there is an increasing need for providing landscape treatments to the residential development, as well as space for associated storage of landscaping equipment and hardware. As the construction of Park Yoho is nearly completed and majority of its land has already been handed over to the property management company, there is no land available within Park Yoho to cater for the proposed use. The Site which is served by local footpath within a very short walking distance to Park Yoho is considered as an ideal, feasible and reasonable location for the proposed use.
- (b) The genuine and temporary nature of the proposed use would not jeopardize the planning intention of the “CDA(1)” zone. Approval of the application for a period of three years would not frustrate the implementation programme of the proposed comprehensive residential development (Application No. A/YL-KTN/604) as the Site falls within the later stage of the implementation programme.
- (c) The proposed use is not incompatible with the surrounding area. The plant nursery is considered as landscape treatment to mitigate the potential landscape impact on the surrounding area. The proposed use could optimize the land and concentrate the proposed uses in suitable location before the implementation of comprehensive development in the long term. No adverse traffic, environmental, fire safety and drainage impacts will be induced by the proposed use. Drainage and fire services installations (FSIs) proposals are submitted in support of the application. No vehicle exceeding 5.5 tonnes will be involved in the development.
- (d) The Site is subject to a previous application for similar use approved by the Committee. Approval of the application would not set an undesirable precedent. The proposed use will cease upon completion and occupation of the Park Yoho or when the Site is developed for comprehensive development.
- (e) Regarding the non-compliance with approval conditions of Application No. A/YL-KTN/575, the applicant has made effort to make submission but the preparation work was halted as the applicant was informed that the Site would be required to be handed over for the commencement of the proposed comprehensive residential development. Subsequently, the handover process was suspended due to the outbreak of pandemic and other operational consideration and would not be commenced again in a short time. Therefore, the applicant intends to continuously utilise the Site for the applied use. The applicant is committed to comply with all the approval condition should the approval is granted.

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

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

4. **Background**

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

5. **Previous Applications**

- 5.1 The Site is subject to two previous applications submitted by the current applicant. Details of the previous applications are summarized in **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 Application No. A/YL-KTN/575 for temporary site office with ancillary open storage of building materials, storage of repairing tools and staff car park was approved with conditions by the Committee for a period of 3 years on 12.1.2018. The application was approved mainly for the reasons that temporary approval would not frustrate the long-term planning intention; the development was considered not incompatible with the surrounding areas; and there was no adverse departmental comment. While the applicant has complied with approval conditions on submission of landscape proposal and FSIs proposals and provision of fire extinguisher, the planning permission was revoked on 12.4.2020 due to non-compliance of approval conditions on submission of drainage proposal and implementation of landscape, drainage and FSIs proposals.
- 5.3 Application No. A/YL-KTN/604 is of a very different nature and scale covering the whole “CDA(1)” zone. It is for proposed comprehensive residential development with minor relaxation of plot ratio and building height restrictions which was approved with conditions by the Committee on 22.3.2019. The development mainly involves a total of 28 residential towers of maximum 18 storeys (including 1 level of basement carpark) for 3,891 flats at total plot ratio of 1.254 (**Plan A-5**). It will be developed in two phases, i.e. Phase A (targeted for completion at 2023) and Phase B (to be developed as a later phase depending on land acquisition progress) at the southern and northern part of the “CDA(1)” zone respectively. The Site of the current application falls within Phase B.

6. **Similar Application**

There is no similar application for the same use within the same “CDA(1)” zone on the OZP.

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4c)

7.1 The Site is:

- (a) used as site office and open storage without planning permission; and
- (b) accessible via a local track branching off Castle Peak Road – Tam Mei.

7.2 The surrounding areas are intermixed with open storage/ storage yards, residential development (i.e. Park Yoho), a plant nursey and unused/vacant land:

- (a) to the north are a storage yard and unused land;
- (b) to the east across a local track are vacant land, a plant nursey and open storage yard;
- (c) to the south across a local track and a nullah are open storage yards; and
- (d) to the immediate west of the Site is an open storage yard. To the further west is Park Yoho (**Plan A-1**).

8. Planning Intention

The “CDA” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the applications are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (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 the application be approved, the lots owner will need to apply to his office to permit the structures to be erected or

regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization 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 Commissioner for Transport (C for T):

- (a) He has no comment on the 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 Transport Department (TD). 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.

9.1.3 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 Castle Peak Road – Tam Mi/ San Tam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received 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 DEP.

Landscape

9.1.5 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) Based on the aerial photo taken on 18.10.2019, the Site is situated in an area of disturbed rural landscape character comprising scattered tree groups, open storages, car parks and abandoned farmlands. Medium-rise residential developments are in close proximity to the Site. The proposed use is considered not incompatible with the surrounding environment.
- (c) Referring to site photos dated 2.6.2020, the Site is partly occupied with temporary structures and most of the Site is hard paved. A few existing invasive weed trees *Leucaena leucocephala* are found within/ in proximity to the Site. Significant adverse impact to landscape resources within the Site is not anticipated.
- (d) The applicant is reminded that approval of the planning application under Town Planning Ordinance does not imply approval of tree preservation/ removal scheme under the Lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

Drainage

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

- (a) He has no in-principle objection to the development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of an updated drainage proposal for the development should be included in the planning permission.
- (c) His detailed comments are at **Appendix V**.

Fire Safety

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

- (a) He has no in-principle objection 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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. Besides, the good practice guidelines for open storage sites in **Appendix III** should be adhered to.
- (c) Having considered the nature of the open storage use, the condition on provision of fire extinguisher(s) within 6 weeks from the date of the planning approval should be included in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS251) to his department for approval.
- (d) The applicant is reminded that if the 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

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

- (a) As there is no record of approval granted by the Building Authority (BA) 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 BA, they are unauthorized building works (UBW) under the Buildings Ordinance (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 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 the BO.

- (d) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA 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 the BO.

District Officer's Comments

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

He has not received any locals' comment on the application and has no comment from departmental point of view.

9.2 The following Government departments have no objection to/ no comment on the applications:

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

10. Public Comments Received During Statutory Publication Period

On 2.6.2020, the application was published for public comments for three weeks. FI(1) submitted subsequently was also published for three weeks. During the 3-week statutory publication periods, three comments were received from a Yuen Long District Council member and two individuals objecting to the application mainly on the grounds that the proposed use will induce adverse traffic impact, traffic safety concern and land pollution; dumping of rubbish by workers would induce environmental and hygienic concerns; it would cause irreversible damage to nearby arable land; it would affect the long-term planning and implementation of the "CDA" zone; approval of the application would set an undesirable precedent; the application is merely a storage facility; and the previous approval at the Site was revoked due to non-compliance with approval conditions (Appendices IV-1 to IV-3).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary site office and plant nursery with ancillary open storage of building materials, tools and equipment, landscaping equipment and hardware and ancillary staff car park at part of the “CDA(1)” zone in support of an adjacent comprehensive private residential development (Park Yoho) until its completion. The planning intention of the “CDA” zone is primarily for comprehensive development/ redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The proposed plant nursery is always permitted on the OZP. Although the applied site office and ancillary open storage and car park are not in line with the planning intention of the “CDA” zone, the Site falls within the later phase of the approved comprehensive private residential development (Application No. A/YL-KTN/604) at the whole “CDA(1)” zone. According to the applicant, upon completion and occupation of Park Yoho or when the Site is developed for the approved residential development, the proposed use will cease. It is considered that approval of the application on a temporary basis of 3 years would not jeopardize the implementation of the approved comprehensive residential development covering the “CDA(1)” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding areas which comprise mainly residential development (i.e. Park Yoho), a plant nursey and unused/vacant land.
- 11.3 Relevant departments including C for T, CE/MN of DSD, D of FS and DEP have no adverse comment on the application. To minimize the possible environmental nuisance, approval conditions restricting the operation hours, workshop activities and vehicles type are proposed in paragraph 12.2 (a) to (d). The applicant will also be advised to adopt the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Other technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (e) to (j) in paragraph 12.2 below.
- 11.4 The Site is subject to a previous application for similar use and submitted by the same applicant. It was approved with conditions by the Committee in 2018, and revoked in April 2020 due to non-compliance with the approval conditions on the submission and/or implementation of landscape, drainage and FSI proposals. In the current application, the applicant submitted drainage and FSIs proposals in support of the application and CE/MN of DSD and D of FS have no in-principle objection to the application. Also, the applicant commits to complying with the approval conditions if the current application is approved. Compared with the previous approved application (No. A/YL-KTN/575), the current application is for a similar use with reduction in number of structures, floor area and parking space. Sympathetic consideration could be given to the current application. Shorter compliance periods are recommended to closely monitor the progress of compliance of the approval conditions should the Committee decide to approve the current application. The applicant will be advised that should he fail to comply

with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 11.5 Three public comments objecting to the application were received during the statutory publication period as detailed in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated 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 comments mentioned in paragraph 10, the Planning Department considers that the proposed temporary site office and plant nursery with ancillary open storage of building materials, tools and equipment, landscaping equipment and hardware and ancillary staff car park 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 20.11.2023. The following conditions of approval with shorter compliance period and advisory clauses are also suggested for Members' reference.

Approval Conditions

- (a) no operation between 7:00 p.m. and 8:00 a.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) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, 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;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on 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 submission of an updated drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.2.2021;

- (g) in relation to (f) above, the implementation of the updated 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 20.5.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.1.2021;
- (j) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.2.2021;
- (k) in relation to (j) above, the implementation 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 20.5.2021;
- (l) if any of the above planning condition (a), (b), (c), (d), (e) 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; and
- (m) if any of the above planning condition (f), (g), (i), (j) or (k) 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 V**.

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

the proposed development is not in line with the planning intention of the "CDA" zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. No strong planning justification has been given in the submission for 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

Appendix I	Application form received on 26.5.2020
Appendix Ia	Planning Statement
Appendix Ib	FI received on 22.9.2020
Appendix Ic	FI received on 28.10.2020
Appendix Id	FI received on 12.11.2020
Appendix II	Previous applications at the Site
Appendix III	Good Practice Guidelines for Open Storage Sites
Appendices IV-1 and IV-3	Public comments received during the statutory publication period
Appendix V	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
Plan A-5	Location of the Site on Master Layout Plan of Application No. A/YL-KTN/604

**PLANNING DEPARTMENT
NOVEMBER 2020**