

RNTPC Paper No. A/YL-PH/847
For Consideration by
the Rural and New Town
Planning Committee
on 1.9.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/847

- Applicant** : Gain Winner Limited represented by R-Riches Property Consultants Limited
- Site** : Lots 861 S.A (Part) and 861 S.C (Part) in D.D. 111, Ha Che, Pat Heung, Yuen Long
- Site Area** : About 1,045m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Shop and Services (Vehicle Parts) with Ancillary Storage and Office for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (vehicle parts) with ancillary storage and office for a period of 5 years. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ is a Column 2 use in “OS” zone which requires permission from the Town Planning Board (the Board). The Site is the subject of a previous application (No. A/YL-PH/797) for proposed temporary shop and services (vehicle parts) for a period of 3 years which was approved by the Rural and New Town Planning Committee (the Committee) in 2018 up to 21.12.2021. The Site is currently used for open storage of construction machinery which is always permitted within the “OS” zone (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involved a four-storey temporary steel-frame structure (about 15m) with a total floor area of about 2,456m² for reception and parking spaces (ground floor), vehicle parts shop (first floor), ancillary office (second floor) and ancillary storage of vehicle parts (third floor) (**Drawing A-2**). Storage of vehicle parts is always permitted within the “OS” zone. There will be three parking spaces for private car and one

loading/unloading space for light goods vehicles. No vehicles exceeding 5.5 tonnes will be used at the Site. The operation hours are between 9 a.m. and 7 p.m. Mondays to Saturdays. There will be no operation on Sundays and public holiday. The Site is accessible to Fan Kam Road via a local track. The site layout plan and elevation plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 Compared with the previous approved application (No. A/YL-PH/797), the current application is submitted by the same applicant for the same use with the addition of ancillary storage and office for a longer period (from 3 years to 5 years). The current application is subject to smaller site area (-481m²/-32%, i.e. excluding the northern portion of the Site under No. A/YL-PH/797) and increase in floor area (+1,764m²/+255%), building height (+4m/+36%) and number of storeys (+3 storeys/+300%).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with planning statement and plans (**Appendix I**) received on 3.6.2020
 - (b) Further Information (FI) received on 16.7.2020 in (**Appendix Ia**) response to departmental comments
[exempted from publication requirement]
- 1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.7.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now 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 supplementary planning information and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The applicant intends to provide enclosed floor space for vehicle part retailer. The office floor space is provided for daily operation. The proposed development can meet the high demand for the applied use in the area. The applicant would like to use the Site as a vehicle parts retail hub to serve the nearby vehicle repair workshops. The increase in development intensity of the Site when compare with the previous approved scheme is to meet the pressing demand for such use in Pat Heung area. The long-term planning intention of the “OS” zone will not be frustrated as it is on a temporary basis.

- (b) The proposed development is not incompatible with the surrounding land uses, which is dominated by vehicle repair workshops and open storage uses. The Site is subject to a previous approved application for shop and services use. Approval of the current application would not set an undesirable precedent. The applicant will only implement the scheme approved under the current application.
- (c) The proposed development would not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding area. The applicant will implement fire service, drainage and landscape proposals should the application be approved.

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

The applicant is not the “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 posting site notice and sending registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to planning enforcement case.

5. Previous Application

The Site is involved in one previous application (No. A/YL-PH/797) for proposed temporary shop and services (vehicles parts) (one-storey structures only) for a period of 3 years, which was approved with conditions by the Committee on 21.12.2018 mainly for the reasons that the temporary nature of the proposed development would not jeopardize the long-term planning intention; the proposed development was not incompatible with the surrounding land uses; and there was no adverse departmental comment. Some of the approval conditions on submission of drainage and fire service installations proposals have been complied with. The planning permission is valid until 21.12.2021. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There is no similar application for shop and services use within the same “OS” zone on the OZP.

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

7.1 The Site is :

- (a) currently paved and used for open storage of construction machinery; and
- (b) accessible via a local track branching off Fan Kam Road.

7.2 The surrounding area is predominated by a mixture of open storage yards, warehouse, workshop and unused/vacant land:

- (a) to its north, east and west are open storage yards, warehouse and workshops; and
- (b) to its south is a site under construction with planning permission under application No. A/YL-PH/804 for proposed temporary wholesale trade (food).

8. Planning Intention

The planning intention of the “OS” is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application 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) Within the Site, Lot 861 S.A in D.D. 111 is covered by Short Term Waiver (STW) No. 4738 for the purpose of open storage of vehicles and vehicle parts.

- (c) Substantial scale and size of structure is proposed, i.e. 4-storey structure with a building height of 15 m and a built over area of 2,456m² for the applied use; a plot ratio of 2.4 (about). Normally single-storey structures are erected for temporary shop and services uses. Provision of a 4-storey structure for temporary shop and services uses with such a large scale should be well justified.
- (d) 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. Applications 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(s) 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 the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering point of view.
- (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. 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/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Fan Kam 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):

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.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development should be included.

Building Matters

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

- (a) If the 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.
- (b) 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.

- (c) Before any new buildings 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 (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (d) 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.
- (e) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

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.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

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

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

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

10. Public Comment Received During Statutory Publication Period

On 12.6.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from a Yuen Long District Councillor (**Appendix III**) objecting to the application mainly for the reason that the height of the proposed structure is excessive which will block the view and air ventilation in the area; and warehouse in rural area should not be higher than the height of Small Houses.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (vehicle parts) with ancillary storage and office in a 4-storey structure within the “OS” zone. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. Although the proposed development is not entirely in line with the planning intention of the “OS” zone, it is not incompatible with the intended uses in the zones. It is considered that temporary approval of the application for a period of 5 years would not jeopardize the long-term planning intention of the “OS” zone.
- 11.2 The proposed development is in the middle of a large “OS” zone. It is considered not incompatible with the surrounding land uses which are mixed with open storage yards, warehouse, workshops and vacant/unused land.
- 11.3 Relevant departments consulted including C for T, CE/MN of DSD and D of FS have no adverse comment on the application. The applicant will 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” to minimize any possible environmental nuisance. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (a) to (f) below.

- 11.4 The Site is subject to a previous application for temporary shop and services (vehicle parts) (one-storey structure only) which was approved in 2018 for the reasons as stated in paragraph 5 above. The current application is for largely the same applied use with a smaller area and increased total floor area, building height and number of storeys.
- 11.5 One public comment objecting to the application was received during the statutory publication period as mentioned in paragraph 10. 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 comment as mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary shop and services (vehicle parts) with ancillary storage and office for a period of 5 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 5 years until 1.9.2025. 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 1.3.2021;
- (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 1.6.2021;
- (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 1.3.2021;
- (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 1.6.2021;

- (g) if any of the above planning condition (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 condition (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 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 "OS" zone which is for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. 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 and supplementary information received on 3.6.2020
Appendix Ia	FI received on 16.7.2020
Appendix II	Previous application covering the Site
Appendix III	Public Comment
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Elevation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**