

RNTPC Paper No. A/YL-PH/813  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 5.7.2019

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

**APPLICATION NO. A/YL-PH/813**

- Applicant** : Four Seasons Property Limited represented by Wah Tung Development Co. Limited
- Site** : Chuk Hang Lots 68 (Part) and 69 (Part) in D.D.111 and Adjoining Government Land, Pat Heung, Yuen Long, New Territories
- Site Area** : About 44m<sup>2</sup> (including government land of about 18m<sup>2</sup> (about 40.9%))
- Lease** : Old Schedule House Lot held under Block Government Lease
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Shop and Services (Real Estate Agency) for a period of 3 years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for shop and services (real estate agency) for a period of 3 years at the application site (the Site). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is subject to one previous application for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2013 and the planning permission lapsed in 2016. The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, a structure with a total floor area of about 70m<sup>2</sup> and building height of 5.5m (two storeys) is erected for a real estate agency within the

Site. The operation hours of the real estate agency are between 10 a.m. and 7 p.m daily. No parking space is provided within the Site. The Site is accessible to Fan Kam Road. The location plan and layout plan as submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 When compared with the previous approved application (No. A/YL-PH/672), the current application is subject to a slightly larger site area from 37m<sup>2</sup> to 44m<sup>2</sup> (+7m<sup>2</sup> / + 18.9%) and total floor area from 63m<sup>2</sup> to 70m<sup>2</sup> (+7m<sup>2</sup> / 11.1%), but with the same building height and layout.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with plans and planning statement (Appendix I) received on 16.5.2019
  - (b) Further Information received on 24.6.2019 in response to departmental comments (Appendix Ia)

## 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 I**. They can be summarized as follows:

- (a) The current application is a continuation of the development approved under the previous Application No. A/YL-PH/672, and no tree felling, land filling or excavation will be carried out.
- (b) The applied use is of a temporary nature and hence will not frustrate the planning intention of the “V” of the OZP. It is not incompatible with the surrounding rural environment and helps utilize land resource.
- (c) The development will only be used for administrative work. No staff will stay overnight, and no works that will create a nuisance and adversely affect the environment (such as car repairs and other car workshop activities) will be undertaken at the Site.
- (d) There are no visitor car parking spaces provided at the Site. As such, there will be no adverse traffic impacts. Garbage will be collected regularly to ensure hygiene.
- (e) Locals have been consulted and no adverse comments have been received.

## 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 posting site notice and sending notification to Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

#### 4. **Background**

The Site is currently not the subject of any outstanding enforcement case. However, the previous planning approval under Application No. A/YL-PH/672 covering the Site lapsed on 6.9.2016. While the real estate agency use was still observed at the Site, it would be subject to planning enforcement action.

#### 5. **Previous Application**

The Site was the subject of a previous application (No. A/YL-PH/672) for temporary shop and services (real estate agency), which was submitted by the same applicant. It was approved with conditions by the Committee on 6.9.2013 for a period of 3 years, mainly for the reasons that temporary approval would not frustrate the planning intention; unlikely to generate significant environmental nuisance; and concerned department had no adverse comment on the application. All of the approval conditions have been complied with and the planning permission lapsed on 6.9.2016. Details of the application are summarized in **Appendix II** and the location is shown on **Plan A-1**.

#### 6. **Similar Applications**

- 6.1 There are three similar applications (No. A/YL-PH/708, 744 and 788) for various shop and services uses within the same "V" zone on the OZP. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-PH/708 and 788 on a site for temporary Shop and Services (for convenience store and storage, and for daily supplies and food retail shop respectively) and No. A/YL-PH/744 for temporary Shop and Services (provision store) were approved with conditions by the Committee on 16.1.2015, 7.9.2018 and 23.6.2017 respectively for similar reasons that approval of the application on a temporary basis would not jeopardize the planning intention of the "V" zone; the development was not incompatible with the surrounding land uses; relevant departments had no adverse comment; and the technical concerns could be addressed by appropriate approval conditions. However, the planning approval for Application No. A/YL-PH/708 was revoked due to non-compliance with approval conditions.

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

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission; and
- (b) accessible to Fan Kam Road to the west.

7.2 The surrounding areas are rural in character predominated mainly by residential dwellings/structures, garages, car parks and unused land:

- (a) to its north, east and south are residential dwellings / structures, carparks and garages; and
- (b) to its west across Fan Kam Road are residential dwellings / structures and parking of vehicles.

**8. 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.

**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 Government Land (GL) and Old Scheduled House Lots held under the Block Government Lease, which erection of building is allowed. However, should the development involve any rebuilding, application to his office for approval will be required.

- (b) The concerned GL within the Site is covered by Short Term Tenancy (STT) No. 2798 to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”.
- (c) The Site is accessible from Fan Kam Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site falls within the Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (e) Should planning approval be given to the planning application, the STT holder(s) will need to apply to his office for modification of the STT conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. 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 premium or fee, as may be imposed by the LandsD.
- (f) There is no Small House application approved or under processing at the Site.

### **Traffic**

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

Considering that there is neither parking provision nor vehicular access to the lot and the induced traffic impact is minimal, he has no comment on the application.

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

It is noted that no vehicular access is proposed or to be granted under the application. He has no comment from highways maintenance point of view on the understanding that there is and will be no vehicular access to / from the Site.

### **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 DEP.

### **Drainage**

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

- (a) He has no in-principle objection to the development.
- (b) Presumably, the applicant would maintain the same drainage facilities as those implemented under the previous application No. A/YL-PH/672.
- (c) Should the application be approved, approval conditions on maintenance of the drainage facilities implemented under application No. A/YL-PH/672 and submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board 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 existing structures are erected on leased land without approval of BD, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under the application.
- (b) Before any new building works are to be carried out on the Site, prior approval and consent from the Building Authority should be obtained. Otherwise, they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. In this connection, 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 respectively.

- (c) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

### **Nature Conservation**

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

Noting that the Site has been paved and occupied by a structure, he has no comment on the application from the nature conservation point of view.

### **Fire Safety**

#### 9.1.8 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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. 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 the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

**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 comment from the locals upon close of consultation and he has no particular comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager (West), Civil Engineering and Development Department (PM/ W, CEDD); and
- (d) Commissioner of Police (C of P).

**10. Public Comment Received During Statutory Publication Period**

On 24.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 14.6.2019, one public comment (**Appendix IV**) from an individual was received. The commenter expressed objection to the application without providing reason.

**11. Planning Considerations and Assessments**

11.1 The application is for temporary shop and services (real estate agency) for a period of 3 years at the Site zoned "V". 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. The development is not entirely in line with the planning intention of the "V" zone. Nevertheless, DLO/YL has advised that there is currently 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.

11.2 The development with a small scale is considered not incompatible with the surrounding land uses, which mainly comprises of residential dwellings/structures and carparks.



- 11.3 Relevant departments consulted, including DEP, C for T, CE/MN of DSD and D of FS have no adverse comment on the application. In view of its nature and small scale, the use is unlikely to generate significant environmental nuisance. To minimize the possible environmental nuisance generated by the development, approval condition restricting operation hours is recommended in paragraphs 12.2 (a) below. Any non-compliance with the approval condition will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions in paragraph 12.2 (b) to (e) below.
- 11.4 The Site is the subject of a previous application for the same temporary shop and services (real estate agency) use, which was approved with conditions by the Committee on 6.9.2013. The current application is largely the same as the previous approved application, except for slight increase in site area (+7m<sup>2</sup> / + 18.9%) and floor area (+7m<sup>2</sup> / + 11.1%). Although the previous planning permission lapsed on 6.9.2016, there is no major change in planning circumstances since the last approval and all approval conditions of the last application had been complied with. Hence, sympathetic consideration could be given to the current application. There are also three similar applications for temporary Shop and Services uses within the same “V” zone approved with conditions by the Committee between 2015 and 2018. Approving the current application is in line with the Committee’s previous decisions on similar applications.
- 11.5 One public comment has been received during the statutory publication period, expressing objection to the application without providing reason. The departmental comments and planning assessments and considerations 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 temporary shop and services (real estate agency) 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 5.7.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 7:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a record of the existing drainage facilities on Site 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 5.10.2019;
- (d) 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 5.1.2020;
- (e) in relation to (d) above, the provision of fire service installations 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 5.4.2020;
- (f) if any of the above planning conditions (a) or (b) 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
- (g) if any of the above planning conditions (c), (d) or (e) 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 development is not in line with the planning intention of the "V" zone which 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. No strong planning justification has been given in the submission to justify 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 date when 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**

<b>Appendix I</b>	Application form with plans and planning statement received on 16.5.2019
<b>Appendix Ia</b>	Further Information (1) received on 24.6.2019
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Similar applications in the same “V” zone on the OZP
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan
<b>Drawing A-2</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2019**