

RNTPC Paper No. A/YL-HTF/1102
For Consideration by
the Rural and New Town
Planning Committee
on ~~30.3.2020~~ 26.5.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1102

- Applicant** : TO Wong represented by Metro Planning and Development Company Limited
- Site** : Lots 230 and 581 in D.D. 128, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : 2,230 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zoning** : “Coastal Protection Area” (“CPA”)
- Application** : Temporary Training Centre (Tree Care Training Centre) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary training centre (tree care training centre) for a period of 3 years. The Site falls within an area zoned “Coastal Protection Area” (“CPA”) on the Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP for “CPA” zone.
- 1.2 The Site involves a previous application (No. A/YL-HT/805) for temporary organic farm with ancillary education and activity centre and small-scale barbecue spot for a period of 3 years. The Board rejected the application on review on 4.1.2013. The Site is currently being occupied by Tree Climbing Hong Kong (TCHK) as a tree care training centre without valid planning permission (**Plans A-2 and A-4a to 4b**).
- 1.3 The Site is accessible via a local track to Deep Bay Road (**Drawing A-1 and Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-2**, there are 3 temporary structures with a total floor area of about 320 m² and building heights of 3 - 4.5 m for open sheds for site office, electricity meter room

and toilet uses. There is a climbing practice ground in the southern portion of the Site and existing trees will be preserved for tree care training (**Drawings A-2 and A-3**). The applicant indicates that there are 2 private car parking spaces and the operation hours are from 9 am to 7 pm every day. The applicant proposes to remove the existing hard-paved area at the southern portion of the Site. No land filling will be carried out at the Site. The proposed access plan, layout plan, landscape plan and drainage plan are shown at **Drawings A-1, A-2, A-3 and A-4** respectively.

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

- (a) Application form and attachments received on 24.12.2019 (**Appendix I**)
- (b) Further Information (FI) clarifying the removal of the existing hard paving of the Site on 6.2.2020 (**Appendix Ia**)
(accepted and exempted from publication requirements)

1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 21.2.2020 for consideration of the application has been rescheduled, and the Town Planning Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Rural and New Town Planning Committee (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 statement (**Appendix I**). They can be summarized as follows:

- (a) The Site is currently occupied by Tree Climbing Hong Kong which is a qualified training institution accredited by the Education Bureau as a training ground.
- (b) The Site is far from residential settlement and the training for tree climbing, tree care and use of saw would not affect nearby residents.
- (c) The Site is grown with mature trees which are suitable for tree care training.
- (d) The development is not incompatible with the surrounding environment.
- (e) The development will not generate adverse traffic, landscape and drainage impact to the surroundings.

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 notice at the Site and sending registered post to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to an enforcement action against unauthorised development (UD) involving recreation use (including climbing facilities and hobby farm). Enforcement Notice (EN) was served on 4.11.2019 and expired on 4.1.2020. Recent inspection on 6.1.2020 revealed that the UD was continued. If the requirement of the EN is not complied with upon expiry of the notice, prosecution action will be taken against the notice recipients.

5. Previous Application

The Site involves one previous application (No. A/YL-HT/805) (covering the Site and a much larger area of about 2.2 ha) for temporary organic farm with ancillary education and activity centre and small-scale barbecue spot which was rejected by the Board on review on 4.1.2013. The rejection reasons were that the proposed development was not in line with the planning intention of the “CPA” zone; there was insufficient information to demonstrate no adverse environmental, drainage and landscape impacts; and the proposed development would set an undesirable precedent for other similar applications. Details of the previous application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

There is no similar application within the same “CPA” zone.

7. The Site and Its Surrounding Areas (Plan A-2 to Plans A-4a and 4b)

7.1 The Site is:

- (a) currently occupied by TCHK for tree care training ground use with some existing structures without valid planning permission;
- (b) within Sha Kong Miu (North) Site of Archaeological Interest; and
- (c) accessible via a local track from Deep Bay Road (**Drawings A-1 and Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics (**Plans A-2**):

- (a) to its north and northeast are sitting out area and residential structures. To its further north and northwest are two sites for temporary place of recreation, sports or culture (fishing ground) and ancillary refreshment kiosk and temporary place of recreation, sports or culture (hobby farm) covered by approved Applications No. A/YL-HTF/1094 and A/YL-HTF/1097 respectively (**Plan A-2**);
- (b) to its southeast is vegetated slope. To its further southeast is Deep Bay Road; and
- (c) to its southwest are some open storage yards, residential settlements and scrubland.

8. Planning Intention

- 8.1 The planning intention of “CPA” zone is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion.
- 8.2 There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

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 (DLO/YL):

- (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) The Site is accessible from Deep Bay Road through Government Land (GL) and private lots. His office provides no maintenance works over the GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the planning application, the lot owner(s) of the lot(s) without Short Term Waiver will need to apply to his office for permitting 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the LandsD acting in the capacity of 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.

Traffic

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

- (a) He has no adverse comment on the application from traffic

engineering point of view.

- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Nature Conservation

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

The Site is disturbed in nature while the northern portion is wooded. It is noted that the applicant will remove the existing hard paving of the Site and the application would not involve any filling/excavation of land, diversion of stream nor tree felling. The three one-storey structures would be located on the southern portion of the Site away from existing trees. In view of the above, he has no strong view on the application from nature conservation point of view. Nevertheless, should the application be approved, the applicant is advised to properly preserve the trees in the wooded areas within and to the east of the Site during operation.

Environment

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

- (a) He has no adverse comment on the application.
- (b) The applicant is advised to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP to minimize potential environmental nuisance to the surrounding area.
- (c) There is no substantiated complaint pertaining to the Site received in the past 3 years.

Landscape

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

- (a) The Site, located to the west of Deep Bay Road, lies in an area of “CPA” zone. The Site is subject to a previous application No. A/YL-HT/805 for temporary organic farm and barbeque use. The current application seeks planning permission for temporary tree care training centre for a period of 3 years.
- (b) With reference to recent site visit and aerial photo taken in 2018, the Site is partly hard paved and scattered tree groups are observed within the Site. The applied use appears to be already in operation. The Site is situated in an area of rural coastal plain landscape character predominated by agricultural land, vegetated areas and temporary structures. The proposed use is not incompatible with the surrounding environment.
- (c) When comparing the aerial photos from 2012 to 2016 and the latest site photos, tree removal, site formation work and construction of temporary structures have taken place over the years. Approval of the application would set an undesirable precedent to encourage other similar applications to carry out vegetation clearance and site formation prior to obtaining planning permission. The cumulative effect of which would result in a general degradation of the rural coastal plain landscape character of the area. Hence, he has reservation on the application from landscape planning perspective.
- (d) In view that the Site is not facing any prominent public frontage and there are existing trees surrounding the Site, it is considered that the approval condition to maintain all existing trees within the Site in good condition for the duration of the planning approval period is adequate should the application be approved by the Board.

Drainage

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

- (a) He has no objection in principle to the proposed application from a drainage point of view; and
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and to maintain the proposed drainage facilities to the satisfaction of the Director of Drainage Services or of the Board.

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 the 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 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 under the BO. An Authorized Person should be appointed as the coordinator for the proposed works in accordance with the BO.
- (e) 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.
- (f) 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) Regulation at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the proposal 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.
- (c) 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.

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

Others

- 9.1.10 Comments of the Antiquities and Monuments Office, Development Bureau (AMO, DEVB):

In view of the location and scope of the temporary training centre (tree care training centre), the AMO has no objection to the application from cultural heritage viewpoint. Nevertheless, the applicant is required to inform AMO immediately if antiquities or supposed antiquities are discovered within the Site for the temporary training centre (tree care training centre).

- 9.1.11 Comments of the Qualifications Framework Section, Education Bureau (QFS, EDB):

The Tree Climbing Hong Kong operates three learning programmes recognized under the Qualifications Framework and registered on the Qualifications Register.

District Officer's Comments

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

His office has not received any comment from the locals on the application and he has no comment on the application.

- 9.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) ;
- (b) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Leisure, Cultural and Services (DLCS);
- (e) Head of Tree Management Office, Development Bureau;
- (f) Commissioner of Police (C of P); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 3.1.2020, the application was published for public inspection. During the statutory public inspection period, four public comments from World Wide Fund (WWF), Kadoorie Farm and Botanic Garden (KFBG), Designing Hong Kong (DHK) and an individual (**Appendices III-1 to III-4**) were received objecting to the application on the following grounds:

- (a) the development is not a compatible use in the "CPA" zone;
- (b) the development is not in line with the planning intention of the "CPA" zone;

- (c) the approval of the application would set an undesirable precedent for similar applications within the “CPA” zone;
- (d) the application is a suspected “destroy first, build later” case and should not be encouraged; and
- (e) a previous application no. A/YL-HT/805 was rejected by the Board on the grounds that the development had adverse environmental, drainage and landscape impacts on the surrounding area.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary training centre (tree care training centre) for a period of 3 years at the Site zoned “CPA” on the OZP. The “CPA” zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. The Site is currently occupied by TCHK for tree care training ground use (**Plans A-3 and A-4**). The northern portion of the Site is vegetated while there are 3 temporary structures and a tree climbing training ground in the southern portion of the Site. The applicant proposes to preserve the existing trees at the Site and to remove the existing hard-paving in the Site. The applicant also commits that no land filling will be carried out at the Site. In this regard, DAFC has no strong view on the application from nature conservation point of view. As such, approving the application on a temporary basis will not undermine the long-term planning intention of the “CPA” zoning.
- 11.2 The Site is situated in a rural landscape setting comprising recreational uses of fishing ground and hobby farm, scattered residential dwellings, open storage yards and scrubland (**Plans A-2 and A-3**). The applied use is considered not incompatible with the surrounding areas.
- 11.3 There is no adverse comment from the concerned Government departments, including DEP, C for T and CE/MN, DSD. The development would unlikely create significant adverse environmental, traffic and drainage impacts to the surrounding areas. Although CTP/UD&L of PlanD has reservation on the application as approval of the application would set an undesirable precedent encouraging other similar applications to clear and form the Site before planning permission is obtained, the applicant is committed to remove all the hard paving at the Site before operation and to retain all the existing trees at the Site. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers.

- 11.4 There is no similar application in the same “CPA” zone. Although a previous application (No. A/YL-HT/805) for temporary organic farm with ancillary education and activity centre and small-scale barbecue spot was rejected by the Board on review, it is different from the current application. Application No. A/YL-HT/805 involves an extensive site area of over 2.2 hectares with some 25 structures of a total gross floor area of about 1,011 m². It was rejected for the reasons of not in line with the planning intention, failing to demonstrate no adverse environmental, drainage and landscape impacts, and setting undesirable precedent. However, for the current application, the development scale is much smaller. It involves a site area of about 2,230 m² and 3 temporary structures of a total gross floor area of about 320 m². The existing trees will be preserved, the existing hard-paved area will be removed, and no land filling will be carried out. Hence, adverse environmental, drainage and landscape impacts are not expected.
- 11.5 There were four public comments objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 temporary training centre (tree care training centre) 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 30.3.2023 26.5.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation from 7 p.m. to 9 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the removal of the existing hard-paving on the Site, as proposed by the applicant, before the operation of the applied use;
- (c) no land filling, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the submission of a revised 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 30.9.2020 26.11.2020;
- (f) in relation to (e) above, the implementation of the revised 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 30.12.2020 26.2.2021;

- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **6 months** from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by ~~30.9.2020~~ 26.11.2020;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by ~~30.12.2020~~ 26.2.2021;
- (k) if any of the above planning conditions (a), (b), (c), (d), (g) 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;
- (l) if any of the above planning conditions (e), (f), (i) or (j) 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
- (m) upon expiry of the planning permission, the reinstatement of the Site to amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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 applied use is not in line with the planning intention of the "CPA" zone, which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is no strong planning justification in the submission for a departure from such 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 24.12.2019
Appendix Ia	FI received on 6.2.2020
Appendix II	Previous Application
Appendices III-1 to III-4	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Site Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

PLANNING DEPARTMENT
~~MARCH~~ MAY 2020