

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

**APPLICATION NO. A/YL-LFS/340**

- Applicant** : Mr. Luk Shek Chuen represented by Metro Planning and Development Company Limited
- Site** : Lot 20 RP (Part) in D.D. 128, Lots 2393 RP (Part) and 2394 RP (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
- Site Area** : About 618m<sup>2</sup> (Including about 18m<sup>2</sup> of Government Land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Residential (Group D)” (“R(D)”) [No development including redevelopment for ‘Flat’ and ‘House’ (except ‘New Territories Exempted Houses’) uses shall result in a development and/or redevelopment in excess of a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m).]
- Application** : Temporary Shop and Services (Convenience Store) 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 shop and services (convenience store) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(D)”. According to the Notes of the OZP for “R(D)” zone, ‘Shop and Services’ is Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years. The Site is currently occupied for the applied use with a planning permission (Application No. A/YL-LFS/287) with validity up to 27.5.2019.
- 1.2 The Site is accessible from Deep Bay Road via a local track (**Drawings A-1 and A-2, Plan A-2**). The ingress/egress point is located at the southern boundary of the Site (**Drawing A-3 and Plan A-2**). As shown on **Drawing A-3**, 6 one-storey temporary structures not exceeding 4m in height with a total floor area of 163m<sup>2</sup> for convenience store, toilet, pump room, water tank, store room and rain shelter and 3 parking spaces for private cars are proposed on the Site. The operation hours of the Site are from 8:00a.m. to 10:00p.m. daily.

1.3 The Site is the subject of two previous applications (No. A/YL-LFS/249 and 287), which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 19.4.2013 and 27.5.2016 (**Plan A-1**). Compared with the last application No. A/YL-LFS/287, the current application is submitted by a different applicant for the same applied use with the same site context. Details of the previous applications are at paragraph 5 and **Appendix II**.

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

- (a) Application Form received on 1.4.2019 **(Appendix I)**
- (b) Supplementary Planning Statement including a site plan, location plan with vehicular access, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan **(Appendix Ia)**
- (c) Letter dated 18.4.2019 in response to Transport Department's comments **(Appendix Ib)**  
[accepted and exempted from publication and recounting requirements]

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib**. They are summarized as follows:

- (a) The proposed development is temporary in nature and it would not jeopardize the planning intention of the "R(D)" zone.
- (b) The proposed development is intended to serve the nearby residents providing daily necessities.
- (c) The proposed development is compatible with the surrounding environment.
- (d) The proposed development would not generate significant amount of traffic flow to nearby roads.
- (e) The applicant would maintain the existing drainage facilities and the existing trees at the Site at his own expense.

## **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. 31) by posting site notice and sending the notice to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

#### **4. Background**

The Site is not subject to any active enforcement action.

#### **5. Previous Applications**

5.1 The Site is the subject of two previous applications (No. A/YL-LFS/249 and 287) for the same applied use approved by the Committee. Details of the applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

5.2 Application No. A/YL-LFS/249 (covering a slightly smaller site context) and Application No. A/YL-LFS/287 (covering the same site context) for temporary shop and services (convenience store) for a period of 3 years were approved by the Committee on 19.4.2013 and 27.5.2016 respectively mainly on the considerations that the proposed development would not jeopardize the long term planning intention of the “R(D)” zone; the proposed development was not incompatible with the surrounding land uses; the scale of the proposed development would not generate adverse environmental, traffic and drainage/visual and landscape impacts; and there was no adverse comment from the concerned Government departments.

5.3 Compared with the last approved application No. A/YL-LFS/287, the current application is submitted by a different applicant for the same applied use with the same site context and similar development parameters (i.e. addition of 10m<sup>2</sup> gross floor area for a rain shelter for the current application).

#### **6. Similar Application**

There is no similar planning application for temporary shop and services within the same “R(D)” zone.

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

7.1 The Site is:

- (a) currently occupied for convenience store use; and
- (b) accessible from Deep Bay Road via a local track (**Drawings A-1 and A-2, Plan A-2**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to its immediate north within the same “R(D)” are parking of vehicles and trailers, further north are open storage yard for construction materials and machinery and residential development of Deep Bay Grove (**Plan A-3**);
- (b) to its immediate west within the same “R(D)” are vacant land, further northwest is a hobby farm under valid planning permission (Application No.

A/YL-LFS/323) and further west is Hang Hau Tsuen;

- (c) to its south and southwest across the nullah are refuse collection point, church and gardening; and
- (d) to its east across Deep Bay Road is open storage of containers under valid planning permission (Application No. A/YL-HT/1032).

## **8. Planning Intention**

The planning intention of “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from 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 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 from her office.
- (b) No permission is given for occupation of GL of about 18m<sup>2</sup> in area (subject to verification) included at the Site. The act of occupation of GL is not allowed without prior approval from her office.
- (c) The private Lot No. 20 RP in D.D. 128 at the Site is covered by a Short Term Waiver (STW) No. 3946 for temporary shop and services (convenience store) purpose.
- (d) The Site is accessible from Deep Bay Road through GL. Her office does not guarantee any right-of-way over the GL to the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. The

owner(s) of lots without STW will need to apply to her office to permit the structures to be erected or regularize any irregularity on site, if any. Also, the applicant has to either exclude the remaining GL from the Site or apply for a formal approval prior to the actual occupation of the remaining GL. 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) On the basis that the applied use would not generate additional traffic flow to Deep Bay Road as compared to the previously approved Application No. A/YL-LFS/287, 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 Transport Department (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) If the proposed run-in/out is agreed by TD, the applicant should provide the run-in/out at proposed access point in accordance with the latest version of Highways Standard Drawings No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

## **Environment**

### 9.1.4 Comment of the Director of Environmental Protection (DEP):

- (a) He has no adverse comment on the application. According to the submitted information, heavy vehicles and dusty operation are not expected on the Site.
- (b) Should the application be approved, 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" ("COP").

## **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 application from drainage point of view.
- (b) According to the applicant, the existing drainage facilities which was implemented under an approved Application No. A/YL-LFS/287 will be maintained for the current application. Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and to submit a condition record of the existing drainage facilities to the satisfaction of his department.

## **Fire Safety**

### 9.1.6 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 the satisfaction of D of FS.
- (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 FSIs 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.

### **Landscaping**

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

- (a) In consideration of the approved Application No. A/YL-LFS/287 for temporary convenience store use, significant change to the landscape character arising from the continued use of the application is not envisaged.
- (b) Should the application be approved by the Board, in consideration that the landscape proposal for Application No. A/YL-LFS/287 was implemented and accepted, the condition to maintain all existing trees within the Site in good condition for the duration of the approval period is considered adequate and appropriate.
- (c) It should be reminded that approval of the application by the Board does not imply the approval of tree works (such as felling/transplanting or pruning) and/or requirements under lease. Tree works applications should be submitted direct to DLO for approval.

### **Building Matters**

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

- (a) There is no record of approval by the Building Authority for the existing structures at the Site, his office 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 BD, they are unauthorized building works (UBW) under the Building 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 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) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD 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.

- (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) 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.

### **Others**

9.1.9 Comments of the Director of Food, Environment and Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) Proper licence/permit issued by FEHD is required if there is any catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.
- (c) For any waste generated from such activity/operation, the applicant should arrange disposal properly at his own expenses.

### **District Officer's Comments**

9.1.10 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.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (West)/West Development Office, Civil Engineering and Development Department (PM(W)/WDO, CEDD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (g) Commissioner of Police (C of P).



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

On 9.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 30.4.2019, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The current application is for temporary shop and services (convenience store) for a period of 3 years at the Site zoned “R(D)” on the OZP. The “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Whilst the proposed development is not entirely in line with the planning intention of the “R(D)” zone, the proposed development is of a small scale and temporary in nature. Moreover, there is no known programme for permanent development on the Site. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses which mainly comprise recreational use, parking of vehicles and trailers, storage yards and vacant land (**Plan A-2**).
- 11.3 There is no adverse comment from the concerned Government departments, including DEP, C for T, CE/MN of DSD and CTP/UD&L, PlanD. The proposed development will unlikely create significant adverse environmental, traffic, drainage and landscape impacts to the surrounding areas. 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 the 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 Given that 2 previous approvals (No. A/YL-LFS/249 and 278) for the same use have been granted at the Site, approval of the current application is considered in line with the Committee’s previous decisions.
- 11.5 There is no public comment received on the application during the statutory publication period.

## 12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department has no objection to the application.
- 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 **31.5.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation from 10:00p.m. to 8:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars, as proposed by the applicant, as defined in the Road Traffic Ordinance, are allowed to enter the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period;
- (d) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities on the 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 **31.8.2019**;
- (f) the submission of run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **30.11.2019**;
- (g) in relation to (f) above, the provision of run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **29.2.2020**;
- (h) all the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (i) 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 **30.11.2019**;
- (j) in relation to (i) 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 **29.2.2020**;

- (k) if any of the above planning conditions (a), (b), (c), (d) 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
- (l) if any of the above planning conditions (e), (f), (g), (i) or (j) is not complied with by the above 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 III**.

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 "Residential (Group D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. 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 the planning 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**

<b>Appendix I</b>	Application Form received on 1.4.2019
<b>Appendix Ia</b>	Supplementary Planning Statement including a site plan, location plan with vehicular access, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan
<b>Appendix Ib</b>	Letter dated 18.4.2019 in response to Transport Department's comments
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Plan
<b>Drawing A-2</b>	Location Plan with Vehicular Access

<b>Drawing A-3</b>	Proposed Layout Plan
<b>Drawing A-4</b>	Proposed Landscape and Tree Preservation Plan
<b>Drawing A-5</b>	As-built Drainage Plan
<b>Plan A-1</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2019**