

IN THE TOWN PLANNING APPEAL BOARD

TOWN PLANNING APPEAL NO. 9 OF 2005

BETWEEN

YEARMAIN LIMITED

Appellant

-v-

THE TOWN PLANNING BOARD

Respondent

Dates of Hearing : 23rd February, 2006 and 29th March, 2006

Date of Decision : 14th July 2006

Composition of the Appeal Board:

Mr Ronny Wong Fook-hum, SC, JP (Chairman)

Mr Richard Chan Kam-lam, MH

Dr Chau Kwai-cheong

Mr Kam Man-kit

Ms Ivy Tong May-hing

DECISION

1. This is an appeal by the Appellant against the decision of the Town Planning Board of 4th February, 2005 which rejected on review the Appellant's application to use Lot No. 1510 and Extension RP in D.D. 115 and the adjoining Government land ["the Site"] as a temporary public car park for private cars and light goods vehicles for a period of 3 years.
2. The Site is of a total area of 2,400 m². It is located at the junction of Yuen Long

Highway and Castle Peak Road and is accessible from Castle Peak Road via Siu Sheung Road. At the material times, the Site was zoned “Undetermined” on the draft Nam Sang Wai Outline Zoning Plan No. S/YL-NSW/5.

3. When the matter was before the Town Planning Board, the application was opposed by the Transport Department, the Drainage Services Department and Planning Department. The Transport Department was of the view that the then proposed vehicular access was too near the road junction with Castle Peak Road. Under the Transport Planning and Design Manual, the run-ins should be located as far as possible away from an uncontrolled junction and not closer than 30 m². That Department was of the further view that the temporary car park should be terminated to make way for the provision of the cautionary pedestrian crossing facilities between Pok Oi Hospital and nearby bus stop. The Drainage Services Department reckoned that insufficient information had been provided to demonstrate that the development would not have any adverse drainage impact on the surrounding areas. The Planning Department from the Urban design and landscape point of view, considered that the screening and softening of the Site was inadequate.
4. By letter dated 25th February, 2005, the Town Planning Board informed the Appellant of their rejection of its application on the basis that “there is no information in the submission to demonstrate that the proposed development would not have adverse traffic, drainage and visual impacts to the surrounding areas”.
5. When the matter first came before us on 23rd February, 2006, it became clear to us that the dispute between the parties could be resolved by further discussions between the parties as to the precise ingress and egress points for the car park in question. We therefore adjourned the hearing for 4 weeks to see if some consensus could be reached.
6. When we resumed on 29th March, 2006, we were informed that after 2 site visits the parties reached agreement in terms as set out in a letter dated 27th March, 2006 and the drawing attached thereto. We were also presented with a list of approval conditions that we should consider imposing should we see fit to adopt the agreement between the parties.
7. We are happy to endorse the agreement between the parties. We would therefore vary the decision appealed against by granting approval on the conditions as set out hereunder.
 - (a) no vehicle and tyre repairing workshop is allowed on the site at any time during the planning approval period;

- (b) no vehicle without valid licences issued under the Traffic Regulations is allowed to be parked on the site at any time during the planning approval period;
- (c) no medium goods vehicle or heavy goods vehicle or container vehicle is allowed to be parked/stored on the site at any time during the planning approval period;
- (d) not more than 54 vehicle are allowed to be parked/stored on the site at any time during the planning approval period;
- (e) the implementation of the ingress/egress point of the site as shown in the drawing attached to the letter from the District Planning Officer/Tuen Mun and Yuen Long to the Appellant dated 27.3.2006 within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (f) the submission and implementation of parking layout within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (g) the submission of landscape and tree preservation proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board;
- (h) in relation to condition (g) above, the implementation of landscape and tree preservation proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board;
- (i) the submission of drainage proposals within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (j) in relation to condition (i) above, the provision of the drainage facilities proposed within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (k) if any of the above planning conditions (a), (b), (c) or (d) is not complied with at any time during the planning approval period, the approval given shall cease to have effect and shall be revoked immediately without further notice;

- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) is not complied with by the specified date, the approval 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 an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board..

Mr. Ng Keen Wei for the Appellant
Miss Jess Chan for the Respondent