

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/734

- Applicant** : Always International Limited represented by R-riches Property Consultants Limited
- Site** : Lots 593 RP, 594 S.A, 595, 671 and 672 RP in D.D. 107, Fung Kat Heung, Yuen Long
- Site Area** : About 1,332m²
- Lease** : Block Government Lease (demised for house and agricultural uses)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Industrial (Group D)” (“I(D)”) [maximum plot ratio of 1.6, maximum site coverage of 80% and maximum building height of 13m]
- Application** : Proposed Temporary Shop and Services (Pet Food) with Ancillary Wholesale Trade 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 (pet food) with ancillary wholesale trade 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 the “I(D)” zone, which requires planning permission from the Town Planning Board (the Board)¹. The Site is currently vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the proposed development involves a two-storey structure with a total floor area of 2,094m² (plot ratio of 1.57), site coverage of 79% and building height of 11m for shop and services (pet food), ancillary

¹ According to the Notes of the “I(D)” zone, ‘wholesale trade’ is a Column 1 use and is always permitted.

wholesale trade and storage of pet food. One parking space for private car and 2 loading/unloading bays for light goods vehicles will be provided within the Site. The operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. Also, no medium or heavy goods vehicles will be allowed to access the Site. The Site is accessible to San Tam Road and Fung Kat Heung Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with planning statement and plans (**Appendix I**) received on 8.10.2020
 - (b) Further Information (FI) dated 27.11.2020 in response (**Appendix Ia**) to departmental comments
(exempted from publication requirement)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement and FI in **Appendices I** and **Ia**. They can be summarized as follows:

- (a) The proposed development will not jeopardize the long term planning intention of the “I(D)” zone. There are also similar applications for shop and services uses approved in the same “I(D)” zone.
- (b) The applicant aims to operate shop and services business to provide pet food for nearby locals in the area. As a large amount of dog is used to guard properties at nearby workshops and warehouses in Fung Kat Heung area, the proposed use will bring convenience to locals. It is not incompatible with the surrounding uses which are dominated by warehouses and workshops uses.
- (c) The proposed development would not generate adverse traffic, environmental and drainage impacts to the surrounding area. Upon approval of the application, the applicant will make effort to comply with the approval conditions/ relevant government regulations related to fire service, drainage, sewerage, environmental and landscape aspects.

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

The applicant is not a “current land owner” of the Site 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 the notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is currently not subject to any active planning enforcement case.

5. **Previous Application**

There is no previous application in respect of the Site.

6. **Similar Applications**

There are seven similar applications for various temporary shop and services uses within the same "I(D)" zone or straddling the same "I(D)" and adjoining "Agriculture" zone, which were all approved with conditions by the Committee between 2017 and 2020 mainly for the reasons that temporary approval would not frustrate the long-term planning intention of the "I(D)" zone; the development was not incompatible with the surrounding land uses; and the relevant departments had no adverse comment on the application. However, two of the planning permissions were revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) paved and vacant; and
- (b) accessible from San Tam Road and Fung Kat Heung Road via a local track.

7.2 The surrounding areas are rural in character predominated by open storage/storage yards, warehouses, workshops, residential dwellings/structures and unused land (**Plan A-2**):

- (a) to its north, east and south are warehouses, residential dwellings/structures and unused land. To the further north is Fung Kat Heung Road; and
- (b) to its immediate east are a local track and Water Supplies Department's water supply facility. To the further east are open storage/storage yards and unused/ vacant land.

8. Planning Intention

The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

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) Should the application be approved, the lots owners will need to apply to his office to permit 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. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 perspective.
- (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 (TD). 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Fung Kat Heung Road is not maintained by HyD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

There was no environmental complaint concerning the Site in the past three years. 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, the conditions requiring the submission, implementation and maintenance of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Fire Safety

9.1.6 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 Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the Site, BD is not in a position to offer comments on their 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 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 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) 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 should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) Detailed checking under the BO will be carried out at building plan submission stage.

- (f) His detailed comments are in **Appendix IV**.

District Officer's Comments

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

He has not received any locals' comment on the application and he has no comment from departmental point of view.

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

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

10. Public Comment Received During Statutory Publication Period

On 16.10.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment from a Yuen Long District Council Member was received (**Appendix III**). He has no comment on the application but objects to the height of the structure. As there are some residential structures near the Site, the building height should not exceed 9m to avoid adverse air ventilation and visual impact.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (pet food) with ancillary wholesale trade for a period of 5 years in the "I(D)" zone. The planning intention of the "I(D)" zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. Although the proposed use is not entirely in line with the planning intention of the "I(D)" zone, it is considered that temporary approval of the application would not frustrate the long-term planning intention of the "I(D)" zone.

11.2 The proposed use is considered not incompatible with the surrounding areas which are rural in character predominated by open storage/storage yards, warehouses, workshops, residential dwellings/structures and unused land. According to the applicant, the proposed use intends to serve the locals in the area.

- 11.3 Relevant departments consulted including DEP, C for T, CE/MN of DSD and D of FS have no objection to or 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”. The technical requirement of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2.
- 11.4 The Site is not subject to any previous application. There are seven similar applications for various temporary shop and services uses within the same “I(D)” zone which were all approved with conditions by the Committee between 2017 and 2020 (paragraph 6 and **Plan A-1** refer). The approval of the application is in line with the Committee’s previous decision on similar applications.
- 11.5 There is one public comment received during the statutory publication period objecting to the building height of the proposed structure as detailed in paragraph 10 above. In this regard, the height of 11m of the proposed structure does not exceed the building height restriction of 13m of the “I(D)” zone. The departmental comments and planning considerations and assessments as stated above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary shop and services (pet food) with ancillary wholesale trade 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 4.12.2025. 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 4.6.2021;
- (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 4.9.2021;

- (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 4.6.2021;
- (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 4.9.2021;
- (g) if any of the above planning conditions (a) and (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 conditions (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 use is not in line with the planning intention of the "I(D)" zone which is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. 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 with supplementary planning statement and plans received on 8.10.2020
Appendix Ia	FI dated 27.11.2020
Appendix II	Similar applications within the same “Industrial (Group D)” zone on the Kam Tin North OZP
Appendix III	Public comment
Appendix IV	Advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**