

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/818

<u>Applicant</u>	: Ha Che Development Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 893 (Part), 894 S.A (Part), 894 S.B (Part), 895 (Part) and 3083 (Part) in D.D. 111, Pat Heung, Yuen Long
<u>Site Area</u>	: About 3,685m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Shop and Services with Ancillary Staff Canteen 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 with ancillary staff canteen for a period of 5 years. 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 not the subject of any previous application and is currently vacant and covered with vegetation (**Plans A-2 and A-4b**).
- 1.2 According to the applicant, the proposed development involves 7 structures (1 storey) with building heights not exceeding 4m and a total floor area of about 594m² for shop and services with ancillary office, staff canteen and management office, meter room, washroom and water tank. Five private car parking spaces and one loading/unloading space for light goods vehicle will be provided at the Site. The Site is accessible via a local track branching off Fan Kam Road. The operation hours are between 10:00 a.m. and 7:00 p.m. daily, including public holidays. The layout and access plans submitted by the applicant are at **Drawings A-1 and A-2**.

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 10.9.2019
- (b) Further Information (FI) received on 24.10.2019 in (**Appendix Ia**) response to departmental comments
(exempted from publication)
- (c) FI received on 15.11.2019 in response to departmental (**Appendix Ib**) comments
(exempted from publication)

1.4 Upon request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application on 1.11.2019 to allow time for the applicant to prepare FI to address departmental comments. Upon receipt of FIs on 24.10.2019 and 15.11.2019, the application is scheduled for consideration at this meeting.

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, Ia and Ib**. They are summarized as follows:

- (a) The proposed development is a Column 2 use in the “V” zone and will not jeopardize the long-term planning intention.
- (b) There is a lack of shops in Pat Heung. The proposed development will provide shop and services to better meet the daily needs of local residents of Ha Che Tsuen and support the local economy.
- (c) The proposed development could separate the workshop activities in the adjoining “Open Storage” (“OS”) zone from the village houses in the “V” zone to reduce the nuisances to the residents. A landscaping area is proposed at the southern portion of the Site to act as a buffer and further minimize nuisances to the surrounding area.
- (d) Upon approval of the planning application, the applicant will make effort in complying with approval conditions/ relevant government regulations in landscape, drainage, fire safety and environmental aspects. The applicant will strictly follow the proposed scheme, and uses not included in the application will be prohibited.
- (e) There is an approved similar application in the same “V” zone and approval of the application will not set an undesirable precedent.

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 not subject to planning enforcement action.

5. Previous Application

The Site is not the subject of any previous application.

6. Similar Application

There is a similar application (No. A/YL-PH/761) for proposed temporary shop and services (pet clinic) (site area of about 305m²) for a period of 3 years within the same “V” zone. The application was approved with conditions by the Committee on 8.12.2017 mainly for the reasons that the approval of the application on a temporary basis would not jeopardize the planning intention of the “V” zone; the proposed use would serve the residential neighbourhood and was not incompatible with the surrounding land uses; and there were no adverse comments from relevant government departments. Details of the application are at **Appendix II** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) vacant and covered with vegetation; and
- (b) accessible via a local track branching off Fan Kam Road.

7.2 The surrounding area is predominantly rural in character intermixed with some residential dwellings/structures, open storage yards and vacant/unused land:

- (a) to its immediate north is an area zoned “OS” with open storage yards and a vacant site with planning permission for proposed temporary wholesale trade (food) (**Plan A-2**);

- (b) to its east is a piece of vacant/unused land. To its further east are clusters of residential dwellings/structures, a stream course and cultivated agricultural land; and
- (c) to its south and west are clusters of residential dwellings/structures including a residential development namely “Fu Shing Garden” and vacant/unused land.

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 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) The Site is accessible from Fan Kam Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
 - (c) 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 the SKAHRA.
 - (d) Should the application be approved, the applicant has to apply to his office for implementation of the planning scheme and to provide full justifications before he will consider to issue Short

Term Waivers (STWs). However, there is no guarantee that such application will be approved.

- (e) There is no Small House approved or under processing at the Site.

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, an 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 the Transport Department. 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) His department is not/shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Environment

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

- (a) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites” issued by the DEP.
- (b) The applicant is reminded that effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO should be obtained before a new discharge is commenced. It is the obligation of the applicant to meet all statutory

requirements under relevant pollution control ordinances and provide necessary mitigation measures.

- (c) There is no environmental complaint received at the Site in the past three years.

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 proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on the submission of drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.

Fire Safety

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

- (a) He has no in-principle objection 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. 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 (BO) (Cap. 123) or application for licence for the proposed ancillary canteen is required, detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

Nature Conservation

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

- (a) He has no adverse comments on the application from nature conservation perspective.

- (b) According to the site inspection, the Site is a vacant site surrounded by village houses and other open storage areas. A semi-natural stream is located to the east of the Site.
- (c) The applicant is reminded to avoid polluting or disturbing the nearby stream during the construction and operation of the proposed development.

Building Matters

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

- (a) 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 Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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.
- (c) 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 (B(P)R) respectively.
- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Food and Environmental Hygiene

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

- (a) Proper licence / permit issued by Food and Environmental Hygiene Department (FEHD) is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.

- (b) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

Water Supplies

9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the incised services within the private lots to WSD's standards.

District Officer's Comments

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

He has not received any comments from the locals upon close of consultation and he has no particular comments on the application.

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

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

10. Public Comments Received During Statutory Publication Period

10.1 On 17.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendices III-1 to III-3**).

10.2 Two comments from the Pat Heung Rural Committee and village representatives of Ha Che Tsuen support the application mainly for the reasons that there is a lack of shop and services in the area; and the proposed development could meet the needs of local residents, enhance surrounding landscape and promote economic

development, separate the residential development from the open storage and workshop activities and reduce air pollution and noise nuisances to the neighbourhood. Besides, the staff could be served by the ancillary staff canteen on-site without the need to travel to other area and thus help to reduce traffic.

- 10.3 The remaining comment is from an individual who objects to the application mainly on the grounds that the application is to legitimize an existing open storage operation; the proposed use is incompatible with the planning intention for the Site; the area is devoid of community and recreation facilities; “V” zone should be used for community facilities or temporary housing for villages without ‘ding’ right; and applications that support brownfield operations should be rejected to encourage better living conditions in the New Territories.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services with ancillary staff canteen for a period of 5 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 proposed development is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advised that there is currently no Small House application approved or under processing at the Site. Besides, according to the applicant, the proposed development is mainly intended to serve nearby residents. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed development comprising 7 one-storey structures is considered not incompatible with the surrounding areas which are rural in character intermixed with some residential dwellings/structures, open storage yards and vacant/unused land.
- 11.3 Relevant departments consulted, including DEP, C for T, CE/MN of DSD, D of FS and DFEH have no adverse comment on the application. In view of its nature and scale, and the location of the Site being at the fringe of the “V” zone adjoining the “OS” zone, the proposed use is unlikely to generate significant environmental nuisance on the surrounding area. To minimize any possible environmental nuisance generated by the proposed development, approval condition restricting operation hours is recommended in paragraph 12.2 (a) 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. The applicant will also be 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”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (b) to (g) below.

- 11.4 There is one similar application (No. A/YL-PH/761) for proposed temporary shop and services (pet clinic) for a period of 3 years approved with conditions by the Committee in 2017 mainly for the reasons as stated in paragraph 6. Approval of the current application is in line with the Committee’s previous decision.
- 11.5 Two supporting public comments and one opposing public comment were received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments 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 comments in paragraph 10, the Planning Department has no objection to the proposed temporary shop and services with ancillary staff canteen 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 3.1.2025. 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) 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 3.7.2020;
- (d) in relation to (c) 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 3.10.2020;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (f) 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 3.7.2020;
- (g) in relation to (f) 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 3.10.2020;
- (h) if any of the above planning condition (a), (b) or (e) 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
- (i) if any of the above planning condition (c), (d), (f) or (g) 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 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 the permissions.
- 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 and planning statement with plans received on 10.9.2019
Appendix Ia	FI received on 24.10.2019
Appendix Ib	FI received on 15.11.2019
Appendix II	Similar application within the same “V” zone on the Pat Heung OZP
Appendices III-1 to 3	Public comments received during the statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2020**