

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/234

- Applicant** : Paraking Limited represented by R-riches Planners & Surveyors Ltd.
- Site** : Lot 1289 RP (Part) in D.D. 114, Kam Sheung Road, Yuen Long
- Site Area** : about 142.2 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zonings** : “Village Type Development” (“V”) (58%)
[maximum building height of 3 storey (8.23m)]

“Agriculture” (“AGR”) (42%)
- Application** : Temporary Shop and Services (Car Audio Shop) and Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services (car audio shop) and ancillary office for a period of 3 years at the application site (the Site). The Site is currently hard paved, fenced and vacant.
- 1.2 The Site is involved in two previous Applications No. A/YL-SK/164 and 204 submitted by a different applicant as the current application for temporary shop and services (real estate agency) and ancillary office and temporary shop and services (car audio shop) and ancillary office respectively. Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 18.11.2011 and 12.12.2014 respectively for a period of 3 years. All approval conditions of both applications have been complied with. The planning permission of the last application (A/YL-SK/204) lapsed on 13.12.2017.
- 1.2 According to the information submitted by the applicant, a 2-storey structure with a total floor area of about 132.8 m² and a building height of 5.2m will be erected within the Site. The ground floor of the structure will be occupied by a car audio shop and a covered private car park space and the upper floor will be an office.

The operation hours are 9:00 a.m. to 6:00 p.m. Mondays to Saturdays, there will be no operation on Sundays and public holidays. The Site is accessible via Kam Sheung Road. The location plan and site layout plan submitted by the applicant are at **Drawings A-1 to A-2** respectively.

- 1.3 A comparison of the major development parameters of the current application and the previous approved application (No. A/YL-SK/204) is given in the following table:

	Last Approved Scheme (a) (No. A/YL-SK/204)	Current Scheme (b)	Difference (b) – (a)
Site Area (m ²)	228.3 ("V": 44.1% ; "AGR": 55.9%)	142.2 ("V": 58%; "AGR": 42%)	-86.1 (-37.7%)
Applied Use	Temporary Shop and Services (Car Audio Shop) and Ancillary Office for a Period of 3 Years	Temporary Shop and Services (Car Audio Shop) and Ancillary Office for a Period of 3 Years	-
No. of Structure	1	1	--
Total Floor Area (m ²)	235.3	132.8	-102.5 (-43.6%)
Building Height	5.2m (2 storeys)	5.2m (2 storeys)	--
No. of Parking Space	2 private car parking spaces	1 private car parking spaces	-1 (-100%)

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

- (a) Application form with planning statement and plans received on 14.2.2018 **(Appendix I)**
- (b) FI received on 16.3.2018 in response to the comments of Commissioner for Transport (C for T) **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
- (c) FI received on 20.3.2018 in response to the comments of C for T **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI received on 23.3.2018 in response to the comments of C for T **(Appendix Ic)**
(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 in the appendix attached to the Application Form in **Appendix I**. They can be summarized as follows:

- (a) The Site is subject to a previous planning application (No. A/YL-SK/204) approved with conditions on a temporary basis for the same use.
- (b) The proposed development is compatible with the surrounding uses. No filling of land/excavation of land and car cleansing activity will be carried out within the Site.
- (c) Adverse traffic impact on the surrounding areas is not anticipated. There is sufficient maneuvering space within the Site, no vehicle will queue back to or reverse onto/from public road from the Site.

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

The applicant is the sole “current land owner” of the respective lot. Detailed information would be deposited at the meeting for Member’s inspection.

4. **Background**

The Site is not subject to any active enforcement action. Should there be sufficient evidence to prove the use on the Site is an unauthorized development under the Town Planning Ordinance, appropriate enforcement action will be taken.

5. **Previous Applications**

- 5.1 The Site is subject to two previous applications No. A/YL-SK/164 and A/YL-SK/204 submitted by a different applicant as the current application. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-SK/164 for temporary shop and services (real estate agency) and ancillary office for a period of 3 years was approved with conditions by the Committee on 18.11.2011 for a period of 3 years on the consideration that the development was of a relatively small scale and was not incompatible with the surrounding environment; there was no application for Small House development on the Site; the approval of the development on a temporary basis would not frustrate the long-term planning intentions of the “AGR” and “V” zones; and Government departments consulted generally had no adverse comment on the application. All the approval conditions including those related to traffic, landscape, drainage and fire safety aspects have been complied with.
- 5.3 The last application No. A/YL-SK/204 for temporary shop and services (car audio shop) with ancillary office was approved with conditions by the Committee for a period of 3 years on 12.12.2014 on similar consideration as stated in paragraph 5.2 above. All planning approval conditions in relation to the submission of existing

drainage record, submission and implementation of landscape and tree preservation and fire service installations proposal have been all compiled with.

- 5.3 Compared with the previous application, the current application involves reduction in the site area, total floor area and number of car parking spaces from 228.3m² to 142.2m² (-86.1m²/-37.7%), 235.3m² to 132.8m² (-102.5m²/-43.6%) and 2 to 1 private car parking space (-1/-100%) respectively, with the same number of structure and building height.

6. Similar Applications

- 6.1 There are five similar applications (No. A/YL-SK/152, 160, 167, 185 and 214) located at one site within the same “V” zone that had been approved by the Committee. There is no similar application within the “AGR” zone. Details of the applications are summarized in **Appendix III** and the locations of the applications are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-SK/152, 160, 167, 185 and 214 for temporary shop and services (real estate agency) located at one application site to the east of the Site were approved with conditions by the Committee for a period of 1 or 3 years on 8.5.2009, 28.1.2011, 20.1.2012, 3.5.2013 and 22.4.2016 respectively. The applications were approved mainly on the considerations that approvals of the applications on a temporary basis for a period of 3 years would not jeopardize the planning intention of the “V” zone; the proposed developments could provide real estate agency service to serve the needs of the local villagers and neighboring residential developments; there was no Small House application at the application sites; the developments were considered not incompatible with the surrounding environment; Government departments consulted had no objection to or adverse comment on the applications and approval conditions could be imposed to address the technical departmental concerns. However, the planning approvals under Applications No. A/YL-SK/152 and 167 were revoked on 8.3.2010 and 28.1.2013 respectively due to non-compliance with approval conditions.

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

- 7.1 The Site is:
- (a) accessible via a short stretch of land connecting Kam Sheung Road to the north;
 - (b) paved and fenced off and currently vacant.
- 7.2 The surrounding areas are predominantly rural in character with a mix of residential structures/dwellings, vacant/unused land, open storage yards, a workshop, parking of vehicles and an office:
- (a) to its north across Kam Sheung Road are an open storage of vehicles, site office, parking of vehicles, residential dwellings/structures and unused/vacant land;

- (b) to its immediate west and southwest is the “V” zones with residential dwellings/structures and village houses; and
- (c) to its immediate south is a vegetated knoll and to its east and southeast under the “AGR” zone are a vehicle workshop, parking of vehicles and some residential structures/dwellings and vacant/unused land.

8. Planning Intentions

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 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. 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 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 an Old Schedule Agricultural Lot 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 to Kam Sheung Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
 - (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA.
 - (d) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures

to be erected or regularize any irregularities on site. Such application(s) 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 premium or fee, as may be imposed by LandsD.

- (e) No small house application is approved or under processing ~~ingion~~ 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 the traffic engineering perspective.
- (b) Should the application be approved, an approval condition stating that 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.

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

- (a) If the proposed run-in is agreed by TD, the applicant should construct a run in/out at the access point at Kam Sheung Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 or H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) The strip of unallocated government land between the Site and the Kam Sheung Road, which may be under the jurisdiction of LandsD, is not and will not be maintained by HyD.
- (c) The applicant shall ascertain that utility services at the run-in location can sustain the construction traffic load.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (e) Excavation Permit should be obtained from his section of HyD prior to commencement of excavation works on public road/footpath which are maintained by HyD.

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site is the subject of two previous approved planning applications to which he had no objection to the last application (No. A/YL-SK/204) for the same use from the landscape planning perspective. Base on the aerial photo taken on 16.4.2017, the Site is situated in an area of rural landscape character comprising of scattered tree groups, small houses, farmlands and car parks. Although the proposed use is not in line with the planning intention of “AGR” zone, it is not incompatible to the surrounding environment.
- (c) According to the site photo taken on 27.2.2018, the Site is currently vacant and hard paved. Existing tree within the Site is generally in good condition. Comparing to the aerial photos taken in 2015 and 2017, there is no significant change in the surrounding area and within the site boundary. Adverse impact on significant landscape resources from the proposed development is not anticipated.
- (d) Should the application be approved, approval conditions requiring the submission and implementation of tree preservation and landscape proposal to the satisfaction of Director of Planning or of the Board should be included.
- (e) Comparing the site photos taken on 27.2.2018 and record photos submitted by the previous applicant dated 3.2.2015, it is noted that one Ficus microcarpa (細葉榕) at the west of site entrance is missing. The applicant is reminded that tree replacement should be provided for any loss of tree within the Site during approval period. The applicant is also reminded that the proposed structures, if any, should be kept away from the existing tree with a minimum clearance of 3m from the tree trunk.

Environment

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

- (a) There was no environmental complaint received in the past three years.
- (b) Provided that the applicant would properly design and manage the proposed car audio shop and minimize any noise from the use of any form of audio amplification system, it would unlikely cause adverse environmental impact to the nearby sensitive receivers. The applicant is also advised to follow the relevant mitigation measures and requirements in the revised “Code of

Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

Agriculture

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

He has no strong view against the application from the agriculture point of view as the Site is small and does not have high potential for agricultural rehabilitation.

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 development.
- (b) Should the application be approved, the approval conditions requiring the submission of a drainage proposal and implementation and maintenance of the drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning permission.

Fire Safety

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

Building Matters

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

- (a) If the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House),

they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under application.

- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (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) 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.
- (e) 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) Regulation at the building plan submission stage.

District Officer's Comments

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

His office has no particular comment on the application. He received one comment from indigenous inhabitant and resident representatives of Sheung Tsuen objecting to the application on the grounds related to traffic and pedestrian safety. The same comment was also received by the Board during the statutory public inspection period (**Appendix IV-4**).

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

- (a) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 27.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.3.2018, five public

comments were received including indigenous inhabitant and resident representatives of Sheung Tsuen, local residents and the general public (**Appendix IV-1 – IV-5**). The commenters raised objection to the application mainly on the grounds that the proposed development would cause nuisance to the local residents, the proposed ingress/egress would pose safety and sightline issues to drivers and pedestrians, increase parking of vehicles at the sidewalk, the proposed structure would lead to adverse drainage impact and affect the pedestrian, and the application would not bring benefits to the public.

11. Planning Considerations and Assessments

- 11.1 The Site falls within the “AGR” zone (42%) and “V” zone (58%). The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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 New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. The application is not in line with the planning intentions of the “AGR” and “V” zones. Nevertheless, DAFC has no strong view against the application as the Site is small and does not have high potential for agricultural rehabilitation. DLO/YL of LandsD also advised that there is no Small House application approved or under process at the Site. Approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intentions of the “AGR” and “V” zones.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, vacant/unused land, a workshop and parking of vehicles. In view of its small scale and its location near Kam Sheung Road, the environmental nuisance generated by the development would unlikely be significant. Relevant departments consulted including C for T, CE/MN of DSD, CTP/UD&L of PlanD and DEP have no adverse comment on the application. To minimize the possible nuisance generated by the proposed development, approval conditions restricting the operation hours and types of vehicles are recommended in paragraph 12.2 (a) and (c) below. 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. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses” in order to alleviate any potential environmental impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (i) below.
- 11.3 The Site is involved in two previous applications No. A/YL-SK/164 and 204 submitted by different applicant as the current application for similar and the same shop and services use were approved with conditions by the Committee on 18.11.2011 and 12.12.2014 respectively (**Plan A-1** and paragraph 5 refer).

Compared with the last approved previous application, the current application involves a slight reduction of site area, total floor area and number of car parking space with the same number of structure and building height (paragraph 5.3 refer). Also, five similar applications (No. A/YL-SK/152, 160, 167, 185 and 214) on one site for shop and services use have also been approved with conditions by the Committee within the same “V” zone (paragraph 6.2 and **Plan A-1** refer). Approval of the subject application is in line with the Committee’s previous decisions.

- 11.4 Five public comments objecting to the application were received during the statutory public inspection period as stated in paragraph 10 above. In this regard, concerned departments including C for T has no objection to the application. Moreover, approval conditions as suggested by C for T and CE/MN of DSD are also recommended in paragraph 12.2. (c) and (g) below to minimize the potential traffic and drainage impacts. The planning considerations and assessments 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 comments mentioned in paragraph 10, the Planning Department considers that the temporary shop and services (car audio shop) and ancillary office 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 6.4.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse into/from public road at any time during the planning approval period;
- (e) 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 6.10.2018;
- (f) in relation to (e) 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 6.1.2019;

- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.10.2018;
- (i) in relation to (h) above, the implementation of tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.1.2019;
- (j) 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 6.10.2018;
- (k) in relation to (j) 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 6.1.2019;
- (l) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (m) if any of the above planning conditions (e), (f), (h), (i), (j) or (k) 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
- (n) upon the expiry of the planning permission, the reinstatement of the application site to an 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 V**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. It is also 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 re-provisioning of village houses affected by Government projects. Land within the "V" zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the

submission for a departure from the planning intentions, 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 plans and attachments received on 14.2.2018
Appendix Ia	Further Information (FI) received on 16.3.2018 in response to the comments of C for T
Appendix Ib	FI received on 20.3.2018 in response to the comments of C for T
Appendix Ic	FI received on 23.3.2018 in response to the comments of C for T
Appendix II	Previous application covering the application site
Appendix III	Similar applications in the same "V" zone on the OZP
Appendices IV-1 – IV-5	Public comments received during statutory publication period
Appendix V	Advisory Clause
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**