

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/47

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| <u>Applicant</u> | R-riches Property Consultants Limited |
| <u>Site</u> | Lot 666 RP in D.D. 96, Kwu Tung, Sheung Shui, New Territories |
| <u>Site Area</u> | About 558 m ² |
| <u>Lease</u> | Old Schedule Agricultural Lot held under the Block Government Lease |
| <u>Plan</u> | Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2 |
| <u>Zoning</u> | “Other Specified Uses” annotated “Amenity Area” (“OU(A)”) and area shown as ‘Road’ |
| <u>Application</u> | Proposed Temporary Shop and Services (Real Estate Agency) with Ancillary Staff Canteen for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission for the proposed temporary shop and services (real estate agency) with ancillary staff canteen at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “OU(A)” and an area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 years in area zoned “OU(A)” or ‘Road’ area requires permission of the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for farming.
- 1.2 According to the applicant’s submission, the proposed development comprises 3 container-converted structures with a total gross floor area (GFA) of about 126 m² and a maximum height of 3m (1 storey) (**Drawing A-1**). The main structure at the Site is for the proposed shop and services (real estate agency) with maximum GFA of about 54 m², whereas two other structures of about 36 m² each are for the proposed ancillary staff canteen (including kitchen and toilet) and back office respectively. The Site is accessible via an existing footpath at its southeastern side. There is no direct vehicular access to the Site, and a vehicular access on the adjoining Government land is proposed by the applicant to connect the Site to a village track, which is about 13m to the southeastern edge of the Site, further connecting to Castle Peak Road – Chau Tau (**Plan A-2**). Two private car parking

spaces for staff use are proposed within the Site, and no visitors parking spaces will be provided at the Site. The proposed operation hours are from 10:00 a.m. to 7:00 p.m every day. The applicant has submitted a layout plan (**Drawing A-1**) and a landscape plan (**Drawing A-2**) to support the application.

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

- (a) Application Form with attachments received on 23.5.2018 **(Appendix I)**
- (b) Supplementary Information dated 1.6.2018 **(Appendix Ia)**
- (c) Further Information (FI) dated 13.6.2018 **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI dated 3.7.2018 **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
- (e) FI dated 9.7.2018 **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)
- (f) FI dated 10.7.2018 **(Appendix Ie)**
(accepted and exempted from publication and recounting requirements)
- (g) FI dated 11.7.2018 **(Appendix If)**
(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 Part 9 of the Application Form at **Appendix I** and **Appendices Ia** to **If**. They are summarized as follows:

- (a) the Site is currently used as farmland, and will be converted to soiled ground once the planning approval is granted by the Board. The proposed container-converted structures will be placed on the converted soiled ground. No filling/excavation of land or site formation works will be carried out so as to minimise the adverse environmental impacts to surrounding area;
- (b) the proposed real estate agency is to serve the local land owners/buyers and its scope of business/services mainly include providing advices on land and small house purchases, conducting development feasibility studies for nearby brownfield sites etc.;
- (c) the proposed back office includes a staff meeting room and a file room to support the operation of the proposed real estate agency. The proposed staff canteen (with kitchen and toilet) is solely for staff use. One staff will be hired to prepare food and provide services at the canteen. Food and beverages will only be provided for staff on site. There will be 6 staff on site;
- (d) the proposed development is not incompatible with the surrounding developments/ uses;

- (e) the Site is accessible via a local track (about 3.5m wide) from Castle Peak Road – Chau Tau. The proposed ingress/egress of the Site is about 5m wide. Only two private car parking spaces are proposed within the Site for staff use to minimise the adverse traffic impacts to surrounding area. No visitors parking spaces will be provided at the Site, and the visitors are required to take public transport to the Site. Besides, the estimated traffic generated/attracted by the proposed development at peak hours are 1 passenger car unit (pcu) per hour respectively; and
- (f) septic tank is proposed to cater for sewage generation at the Site. The proposed septic tank will be up to the standards of Professional Persons Environmental Consultative Committee Practice Notes. The applicant will carry out sewage treatment works in accordance with the Water Pollution Control Ordinance and submit the relevant license applications to respective authorities upon obtaining the planning permission by the Board.

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

The applicant is not the 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 application notice outside the Site and sending notice to the Sheung Shui District Rural Committee (SSDRC) by local registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not the subject of any active enforcement case.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Application**

There is no similar application with the same “OU(A)” zone.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2 and photos on Plans A-3 and A-4a to A4-b)

7.1 The Site is:

- (a) generally flat and currently used for farming, with a narrow water ditch running along the eastern and southern edge of the Site; and
- (b) accessible via an existing footpath at its southeastern side. There is no

direct vehicular access to the Site, and a vehicular access on the adjoining Government land is proposed by the applicant to connect the Site to a village track, which is about 13m to the southeastern edge of the Site, further connecting to Castle Peak Road – Chau Tau.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is a temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and office under application No. A/KTN/36 approved by the Rural and New Town Planning Committee (the Committee) on 15.6.2018;
- (b) to the west and northwest are a car repairing workshop, plant nurseries, casual parking area and some domestic structures;
- (c) to the immediate south are the cycle tracks under construction by Civil Engineering and Development Department (CEDD), and to the further south are Castle Peak Road – Chau Tau and Fanling Highway; and
- (d) to the east and northeast are some domestic structures intermixed with some active and fallow agricultural land.

8. Planning Intentions

8.1 The planning intention of the “OU(A)” zone is primarily for the provision of landscaping and planting to enhance the environment.

8.2 The area shown as ‘Road’ is intended for road development.

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 prior approval of the Government;
- (b) the Site is accessible to Castle Peak Road – Chau Tau through Government land (GL). His office provides no maintenance works for the GL involved and does not guarantee any right-of-way; and
- (c) should the planning application be approved, the lot owner will need

to apply to his office to permit the structures to be erected or regularise any irregularity on site. Such application will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he considers that the application can be tolerated from traffic engineering viewpoint based on the applicant's FI (**Appendix If**) demonstrating that vehicles can manoeuvre within the Site without reversing on the public road; and
- (b) the proposed vehicular access to the Site is via Government land and village track connecting with Castle Peak Road – Chau Tau. The above Government land and village track are not under Transport Department (TD)'s management. The applicant should check the land status of the access with the lands authority, and clarify its management and maintenance responsibilities with the relevant lands and maintenance authorities accordingly.

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

he has no comment on the application. The vehicular access leading from Castle Peak Road – Chau Tau to the Site is not maintained by HyD.

Future Development

9.1.4 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

he has no comment on the application from the project interface point of view. The Site falls within the Remaining Works Packages of Kwu Tung North New Development Area (KTN NDA) project.

Environment

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

- (a) he has no comment on the application;
- (b) the water ditch found on site seems to be formed by farmers for irrigation purpose on farmland which is an usual farming practice. It is not a natural stream/watercourse. Should the application be approved, the applicant should be reminded of his obligation to comply with the Water Pollution Control Ordinance. The design and

construction of the septic tank and soakaway system should follow the requirements of the Practice Note for Professional Person (ProPECC) PN5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and should be duly certified by an Authorized Person (AP); and

- (c) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’.

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

the Site is in an area where no public sewer connection is available.

Landscape

9.1.7 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) he has no objection to the application from the landscape planning perspective;
- (b) according to the latest aerial photo of 2017, the Site is located in an area of rural landscape character which predominantly comprises temporary structures, large vehicle parks and woodland patches. The proposed development, with a few one-storey temporary structures and car parking spaces, is not entirely incompatible with the surrounding environment;
- (c) according to his site record dated 11.6.2018, the Site is within an active farmland growing vegetables. Only a few young fruit trees are found with the Site. No significant adverse landscape impact arising from the applied use is anticipated; and
- (d) should the application be approved, an approval condition requiring the submission and implementation of landscape proposal is recommended. Other advices are at **Appendix III**.

Drainage

9.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in principle to the application from the public drainage point of view; and
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the

adjacent areas. General requirements in the drainage submission are at **Appendix III**.

Agriculture and Nature Conservation

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

- (a) he has reservation on the application from agricultural point of view, as the Site is currently an active farmland; and
- (b) he has no adverse comment on the application from nature conservation point of view, as the water ditch along the edge of the Site is disturbed and seems to be polluted. Fishes observed there are exotic species of low ecological value.

Food and Environmental Hygiene

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

- (a) a staff canteen that is exclusively used by the staff members of that working place does not require a food business licence from Food and Environmental Hygiene Department (FEHD). However, if the said canteen provided foods to the outsiders with payment, a food business licence is required; and
- (b) the applicant should ensure that no environmental nuisance will be generated to the surroundings in connection with the operation of any commercial/trading activities. Other advisory comments are at **Appendix III**.

Town Gas Safety

9.1.11 Comments of Director of Electrical and Mechanical Services (DEMS):

- (a) there is a high pressure town gas transmission pipeline (running along Castle Peak Road – Chau Tau) in the vicinity of the Site;
- (b) the applicant shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
- (c) the applicant is required to observe the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes" for reference.

Building Matters

9.1.12 Comments of the Chief Building Surveyor/New Territories West, Buildings

Department (CBS/NTW, BD):

he has no comment on the application. There is no record of approval by the Building Authority for the proposed buildings/structures at the Site. BD is not in a position to offer comments on their suitability for the applied use. Other advisory comments are at **Appendix III**.

Fire Safety

9.1.13 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 and water supplies for fire-fighting being provided to the satisfaction of his department; and
- (b) Emergency Vehicular Access (EVA) arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD.

District Officer's Comments

9.1.14 Comments of the District Officer/North, Home Affairs Department (DO/N, HAD):

he has consulted the locals from 13.6.2018 to 26.6.2018. The North District Council (NDC) member of the subject Constituency and the Chairman of SSDRC have no comment on the application. The Resident Representative (RR) of Kwu Tung (North) and the RR of Kwu Tung (South) objected to the application mainly on the grounds that the proposed vehicular access to Castle Peak Road – Chau Tau may cause nuisance to the nearby residents and conflicts among vehicles and pedestrians. The associated traffic will generate noise and nuisance to nearby residents. Besides, the proposed staff canteen may lead to environmental hygiene and pollution problems.

9.2 The following Government departments have no objection/adverse comment on the application. Their advisory comments, if any, are at **Appendix III**:

- (a) Chief Estate Surveyor/Acquisition, Lands Department (CES/A, LandsD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 5.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 26.6.2018, a total of 4 public comments were received (**Appendices IIa and IIb**). One comment submitted by a NDC member objects to the application mainly on the grounds that the proposed staff canteen may create sewage and hygienic problems to the surroundings and the residents

nearby. Another objecting comment from the general public raised query on the suitability of the proposed real estate agency at the location and indicated that the proposed development may create environmental and hygienic problems and nuisance to the residents nearby. It is also suspected that the Site would be used for other purposes such as container storage, instead of the applied use. Other 2 commenters from the general public do not have any comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for the proposed temporary shop and services (real estate agency) with ancillary staff canteen for a period of 3 years. The Site falls within an area zoned “OU(A)” and shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The proposed use is not in line with the planning intention of the above zonings which are mainly for amenity or road use under the KTN NDA development. However, the Site falls within the Remaining Works Packages of KTN NDA project. PM/N, CEDD has no objection to the application in relation to the implementation of the NDA. In view of the above, approval of the application on a temporary basis for 3 years would not jeopardize the long-term development of the Site.
- 11.2 According to the applicant, the proposed real estate agency is to serve the local land owners/buyers and its scope of business/services mainly include providing advices on land and small house purchases, conducting development feasibility studies for nearby brownfield sites etc. Three container-converted structures would be provided on site for real estate agency, back office and staff canteen use. In view of the nature and scale of the proposed development, it is not incompatible with the existing surrounding land uses which comprise mainly vehicle park, car repairing workshop, plant nurseries and some domestic structures. To its immediate north is a temporary public vehicle park for private cars and light goods vehicles with ancillary resting room and office under application No. A/KTN/36 approved by the Committee on 15.6.2018. Significant adverse traffic, environmental, landscape and drainage impact is not anticipated. C for T considers that the application can be tolerated from traffic engineering viewpoint. DEP has no adverse comment on the application. Although DAFC has reservation on the application from agricultural perspective noting that the Site is currently an active farmland, the Site is not zoned for “Agriculture” and will form part of the KTN NDA development for amenity or road use. Other relevant departments including CTP/UD&L of PlanD, CE/MN, DSD and DFEH have no adverse comment on/no objection to the application from landscape, drainage and hygienic perspectives.
- 11.3 There are 4 local comments conveyed by DO(N) and 4 public comments (as stated in paragraphs 9.1.14 and 10), of which 4 raise objection to the application mainly on the grounds of adverse traffic, environmental, hygienic and sewage problems and nuisance to the residents nearby. Relevant Government departments’ comments and planning considerations set out in paragraphs 11.1 to 11.2 above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments in paragraphs 9.1.14 and 10, the Planning Department considers that the proposed temporary shop and services (real estate agency) with ancillary staff canteen 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 20.7.2021. 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) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or the Town Planning Board by 20.1.2019;
- (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 the Town Planning Board by 20.4.2019;
- (d) the submission of proposal for fire service installations and water supplies for fire-fighting 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 20.1.2019;
- (e) in relation to (d) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 20.4.2019;
- (f) the submission of 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 20.1.2019;
- (g) in relation to (f) above, the implementation of 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 20.4.2019;
- (h) if the above planning condition (a) is not complied with during the planning approval period, the approved hereby given shall cease to have effect and shall be revoked without further notice; and
- (i) if any of the above planning conditions (b), (c), (d), (e), (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 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 intentions of the “OU(A)” zone and area reserved for ‘Road’ which are primarily for the provision of landscaping and planting to enhance the environment and for road development respectively. No strong planning justification has been given in the submission to justify 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

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| Appendix I | Application Form with attachments received on 23.5.2018 |
| Appendix Ia | Supplementary Information dated 1.6.2018 |
| Appendix Ib | Further Information (FI) dated 13.6.2018 |
| Appendix Ic | FI dated 3.7.2018 |
| Appendix Id | FI dated 9.7.2018 |
| Appendix Ie | FI dated 10.7.2018 |
| Appendix If | FI dated 11.7.2018 |
| Appendices IIa and IIb | Public Comments |
| Appendix III | Advisory Clauses |
| Drawing A-1 | Layout Plan |
| Drawing A-2 | Landscape Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and A-4b | Site Photos |