

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/862

- Applicant** : Chung Sun Tech Communication Group Ltd. represented by R-riches Consultant Ltd.
- Site** : Lots 78 S.A (Part), 93 (Part) and 94 (Part) in D.D. 108, Fan Kam Road, Pat Heung, Yuen Long
- Site Area** : About 5,722 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
- Application** : Proposed Temporary Vehicle Park and Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary vehicle park and office for a period of 3 years. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use in the “R(D)” zone, which requires planning permission from the Town Planning Board (the Board). ‘Private Vehicle Park’ and ‘Office’ is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires permission from the Board, notwithstanding that the use or development is not provided for in terms of the OZP. The Site is mostly vacant with a canopy and a two-storey structure for office use without valid planning permission (**Plan A-2 to A-4**).
- 1.2 The Site was the subject of ten previous applications for various vehicle park and open storage uses. The last application No. A/YL-PH/722, submitted by a different applicant, for temporary open storage (scrap metal) for a period of 3 years was rejected by the Board on review on 15.4.2016.

- 1.3 According to the applicant, the proposed development will provide 69 parking spaces, including 37 for private cars and 32 for light goods vehicles. Among them, 22 private car parking space will be used for public vehicle park and the remaining (i.e. 15 private car and 32 light goods vehicle parking space) will be used by the applicant for parking the company's vehicles. Two canopies for parking spaces and one 2-storey structure for site office with a total floor area of 1,660m² and height not exceeding 6.5m will be erected at the Site. The operation hours for the public car parking will be 24 hours daily and the site office will be operating from 9:00a.m. to 6:00p.m. Mondays to Fridays (no operation on Saturdays, Sundays and public holidays). No vehicles exceeding 5.5 tonnes will be parked on the Site. The Site is accessible from Fan Kam Road via a short local access. The site layout plans showing the structures and car parking spaces submitted by the applicant are in **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary planning statement and plans received on 2.11.2020 **(Appendix I)**
 - (b) Further Information (FI) received on 11.12.2020 in response to departmental comments **(Appendix Ia)**
[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 supplementary planning statement at **Appendix I**, and are briefly summarized as follows:

- (a) The applicant is a local communication technology company. They intend to use part of the Site to park the company's vehicles and open the remaining portion of the Site to public for parking. The development would help meet the acute local demand for public vehicle park and bring convenience to the locals.
- (b) The proposed development is not incompatible with the surrounding areas which are mainly occupied by workshops and vacant land. It will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. Drainage and fire service installations proposals are submitted to support the application.
- (c) The proposed development is temporary in nature and will not frustrate the long-term planning intention of the "R(D)" zone. Previous applications for parking uses at the Site were approved by the Rural and New Town Planning Committee (the Committee) and there are similar applications approved in the same "R(D)" zone. Approval of this application would not set an undesirable precedent.

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

The applicant is not the “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notice to the Pat Heung Rural Committee. 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 Applications**

- 5.1 The Site involves ten previous applications for various temporary parking and open storage uses, with 6 approved and 4 rejected. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

Six Approved Applications

- 5.2 Applications No. A/YL-PH/385, 413, 501, 604, 661 and 702 for temporary public vehicle park without medium goods vehicles/container vehicles for a period of 3 years were approved with conditions by the Committee between 2001 and 2014 mainly for the reasons that the proposed development would not frustrate the long-term planning intention; there was no change in planning circumstances since the previous approvals; and the proposed development was not incompatible with the surrounding land uses and unlikely to generate adverse traffic, drainage and landscape impacts. However, the planning permission of applications No. A/YL-PH/385, 413 and 661 were revoked due to non-compliance with the approval conditions.

Four Rejected Applications

- 5.3 Application No. A/YL-PH/439 for temporary private car, lorry and tractor park for 3 years was rejected by the Board on review in 2003 on the grounds that the development was not in line with the planning intention of the “R(D)” zone; the development was not compatible with the land uses to its north and southwest which were predominantly residential in nature; and there was insufficient information in the submission to demonstrate that the development would not have adverse drainage and environmental impacts on the surrounding areas.
- 5.4 Applications No. A/YL-PH/552, 695 and 722 for various temporary open storage uses were rejected by the Committee or the Board on review between 2008 and 2016 on similar grounds that the proposed development was not in line with the planning intention of the “R(D)” zone; the proposed development was not compatible with the surrounding area; the development did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that the site did not have any previous planning approvals for open storage use and there were adverse departmental comments on the

application; there was insufficient information to demonstrate that the proposed development would not generate adverse environmental/drainage impacts on the surrounding areas; and approval of the application would set an undesirable precedent.

6. Similar Applications

- 6.1 There are eleven similar applications for various parking uses in the same “R(D)” zone. Details of the applications are summarised in **Appendix III** and their locations are shown on **Plan A-1a**.

Five Approved Applications

- 6.2 Five applications for temporary public / private car park without medium goods vehicles / container vehicles (with / without ancillary site office) were approved with conditions by the Committee between 1997 and 2020 mainly on the considerations that temporary approval of the application would not frustrate the long-term planning intention of the “R(D)” zone; the proposed development was not incompatible with the surrounding area; no adverse environmental impacts were anticipated; relevant departments consulted had no adverse comments on the application; and concerns of relevant departments could be addressed by approval conditions. Planning permissions of two applications were revoked due to non-compliance with approval conditions.

Six Rejected Applications

- 6.3 The other six applications for temporary vehicle park involving private car / lorry / coach / heavy vehicles / tractor / container vehicles (with / without open storage) were rejected by the Committee or the Board on review between 1994 and 2020. They were rejected mainly for the reasons that the proposed development was not in line with the planning intention of the “R(D)” zone; it did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-Up Uses (Applications No. A/YL-PH/4, 529 and 819 only); it was not compatible with the surrounding areas; there was insufficient information to demonstrate the development would not cause adverse environmental / landscape / drainage / traffic impacts on the surrounding areas; and approval of the application would set an undesirable precedent.

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

- 7.1 The Site is:
- (a) fenced, hard paved, mostly vacant with a canopy and a two-storey structure for office use without valid planning permission; and
 - (b) accessible from Fan Kam Road via a short local access.
- 7.2 The surrounding areas are rural in character intermixed with residential structures / dwellings, open storage yards, vehicle repair workshops, warehouse, horse riding school and vacant/unused land:

- (a) to its immediate north are a residential structure / dwelling, open storage yard, and vacant / unused land. To the further north are a temporary horse riding school with planning permission and vacant land with planning permission for temporary recycling materials collection centre (garment and cloth collection centre with ancillary office);
- (b) to its east across a stream are horse riding grounds and vegetated land zoned “Conservation Area” (“CA”); and
- (c) to its south and west are residential structures / dwellings, vehicle repair workshops, open storage yard, warehouse and vacant / unused land. To its further west is Fan Kam Road.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from 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 of 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) Within the Site, part of the private lots are currently covered by two Short Term Waivers (STWs), details of which are listed below:

STW No.	Lot Nos. in D.D. 108	Permitted Use
STW 3715	78 S.A (Portion)	Ancillary Use to Public Car Park
STW 3716	93 (Portion)	Ancillary Use to Public Car Park

- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for

modification of the STW conditions where appropriate, and the lot owner(s) of the lot(s) without STW 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 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 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. 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 of HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

There is no substantiated environmental complaint concerning the Site received by DEP 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.

Landscape

- 9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L):
- (a) She has no objection to the application from landscape planning perspective.
 - (b) Based on the aerial photo taken on 26.9.2020, the Site is situated in an area of rural landscape character comprising woodland patches, temporary structures and vehicle parks. The proposed use is not entirely incompatible with the landscape character of the area.
 - (c) With reference to the site visit dated 19.5.2020, the Site is paved and partly vacant and partly occupied with temporary structures. 19 nos. of existing trees including *Bombax ceiba* (木棉), *Clausena lansium* (黃皮) and *Ficus microarpa* (細葉榕) in good to fair conditions are found along the western and southern boundary within the Site. Referring to the submitted layout plan, the proposed development is not in conflict with the existing trees. Referring to the submitted planning statement, the applicant proposed to preserve the existing trees as far as practicable. Significant adverse impact on landscape resources within the Site is not anticipated.

Nature Conservation

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

Noting the Site has been paved, he has no comment on the application from nature conservation point of view. Nevertheless, there is a watercourse to the east of the Site. Should the application be approved, the applicant is advised to adopt necessary measures to prevent polluting and disturbing the watercourse during operation.

Drainage

- 9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN of 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, approval conditions requiring the submission, implementation and maintenance of a revised drainage proposal for the development should be included in the planning permission.
- (c) His detailed comments on the submitted drainage proposal is at **Appendix IV**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) 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 Buildings Ordinance (BO) and should not be designated for any proposed use under the application;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;

- (vi) any temporary shelters or converted containers for office, storage, washroom or other uses are considered temporary buildings and are subject to the control of Part VII of the B(P)R; and
- (vii) detailed checking under the BO will be carried out at building plan submission stage.

Fire Safety

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

- (a) He advised that the submitted fire service installations (FSIs) proposal is acceptable.
- (b) The applicant is advised that the installation / maintenance / modification / repair work of the FSI shall be undertaken by a Registered Fire Service Installation Contactor (RFSIC). The RFSIC shall after completion of the installation / maintenance / modification / repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to his department.

District Officer's Comments

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

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

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

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

10. Public Comments Received During the Statutory Publication Period

On 13.11.2020, the application was published for public inspection. During the three-week statutory publication period, two comments (**Appendices V-1 and V-2**) were received from individuals. The comments object to the application mainly on the grounds that there is no residential cluster near the Site for a strong parking demand; the Site was used for open storage and within flood pumping gathering grounds; the intention of the applicant and timeline to implement the planning intention is questionable; and the

proposed development would result in adverse traffic impacts and affect pedestrian safety and living quality.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary vehicle park and office for a period of 3 years at “R(D)” zone. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed use is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is no known programme for permanent development at this part of the “R(D)” zone. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.
- 11.2 The proposed development involves vehicle park for private cars and light goods vehicles and an office at a site along Fan Kam Road. It is considered not incompatible with the surrounding area which is rural in character intermixed with residential structures / dwellings, horse riding school and vacant/unused land.
- 11.3 Relevant departments consulted including C for T, DEP, CTP/UD&L of PlanD, DAFC, CE/MN of DSD and D of FS have no adverse comments on the application. To minimize the possible environmental nuisance generated by the proposed use, approval conditions restricting the vehicle types are recommended in paragraph 12.2 (a) to (c). The applicant will also be advised to follow 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 would be addressed by approval conditions in paragraph 12.2 (d) to (h).
- 11.4 The Site is subject to 10 previous applications, with 6 approved and 4 rejected. There are also 11 similar applications in the same “R(D)” zone for vehicle park, with 5 approved and 6 rejected. All the approved previous/similar applications were temporary vehicle park without medium goods vehicles/container vehicles, whereas the rejected previous/similar applications involved parking of lorry/coach/ heavy vehicles/ tractor/ container vehicles. As the current application involves only parking of private cars and light goods vehicles, approval of the application is in line with the Committee’s previous decisions.
- 11.5 Two public comments were received during the statutory inspection period, objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated 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 as mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary vehicle park and 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 18.12.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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;
- (b) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that 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 all times during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a revised 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 18.6.2021;
- (f) in relation to (e) above, the implementation of the revised 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 18.9.2021;
- (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 implementation of the accepted 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 18.6.2021;
- (i) 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; and
- (j) if any of the above planning condition (e), (f) or (h) 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 VI**.

- 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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. 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 2.11.2020
Appendix Ia	FI received on 11.12.2020
Appendix II	Previous applications covering the Site
Appendix III	Similar applications within the same "R(D)" zone on the Pat Heung OZP
Appendix IV	Detailed comments from the CE/MN of DSD
Appendices V-1 and V-2	Public comments received during the statutory publication period
Appendix VI	Advisory Clauses
Drawings A-1 to A-2	Layout Plan
Plan A-1a	Location Plan with Similar Applications

Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**