

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/797

<u>Applicant</u>	:	Gain Winner Limited represented by R-Riches Property Consultants Limited
<u>Site</u>	:	Lots 861 S.A (Part), 861 S.C (Part) and 862 (Part) in D.D. 111, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 1,526 m 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>	:	“Open Storage” (“OS”)
<u>Application</u>	:	Proposed Temporary Shop and Services (Vehicle Parts) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant sought planning permission to use the application site (the Site) for temporary shop and services (vehicle parts) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ is a Column 2 use within “OS” zone which requires permission from the Town Planning Board (the Board). The Site is not involved in any previous application. The Site comprises two pieces of land which are separated by a local track. The northern portion and southern portion are currently used for storage of vehicles/vehicle parts and storage of construction machinery respectively (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves two single storey structures for shop and services (vehicle parts) and back office uses with building heights of 11m and 3m respectively and a total floor area of about 692m². One loading/unloading space for light goods vehicles will be provided within the southern portion of the Site. The operation hours are from 10 a.m. to 5 p.m. daily. The Site is accessible via a local track leading from Fan Kam Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and **(Appendix I)** plans received on 1.11.2018
 - (b) Supplementary information received on 8.11.2018 **(Appendix Ia)** with replacement pages
 - (c) Further information (FI) received on 13.12.2018 in **(Appendix Ib)** response to departmental comments

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement attached to the Application Form in **Appendix I**. They can be summarized as follows:

- (a) The proposed development intends to serve the vehicle repair workshops in the vicinity. The proposed development is compatible with the surrounding land uses.
- (b) A loading/unloading space and sufficient maneuvering space will be provided on site and no vehicle will queue back to or reverse onto/from areas outside the Site. No parking space will be provided to the staff who will take public transport and walk to the Site.
- (c) Upon approval of the planning application, the applicant will make effort in complying with approval conditions/ relevant government regulations related to fire safety, drainage, sewerage and landscape aspects.

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 notice at the Site and sending the notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement case.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Application

There is no similar application within the same “OS” zone on the OZP.

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

7.1 The Site is:

- (a) currently used for storage of vehicles/vehicle parts and storage of construction machinery; and
- (b) accessible via a local track leading from Fan Kam Road.

7.2 The surrounding areas are rural in character mixed with open storage/storage yards, workshops, a trailer/tractor park and vacant/unused land (**Plan A-2**):

- (a) to its east and southeast are various open storage/storage yards and workshops;
- (b) to its north and northwest are various open storage yards, a workshop, a trailer/tractor park (with planning permission under Application No. A/YL-PH/748) and vacant land. Further north are unused land falling within the “Green Belt” (“GB”) and “Conversation Area” (“CA”) zones;
- (c) to its southwest is a piece of vacant/unused land.

8. Planning Intention

The planning intention of the “OS” is intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.

- (b) Lot No. 861 S.A. in D.D. 111 within the Site is covered by a Short Term Waiver (STW) No. 4738 to permit structures erected thereon for the purpose of “open storage of vehicles and vehicles parts”.
- (c) Lot No. 862 in D.D. 111 within the Site is covered by a STW No. 4739 to permit structures erected thereon for the purpose of “open storage of vehicles and vehicles parts”.
- (d) 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.
- (e) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (f) Should planning approval be given to the planning application, the STW holders(s) will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as the 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 the LandsD.

Traffic

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

- (a) He has no comment on the application.
- (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/NT West, Highways Department (CHE/NTW, HyD):

- (a) His department does not and will not maintain the accesses 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):

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, Planning Department (CTP/UD&L, PlanD):

- (a) He has no objection to the application from the landscape planning point of view.
- (b) The Site is in rural fringe character surrounded by existing open storages and is not incompatible to the existing surrounding environment.
- (c) Referring to the site visit dated 20.11.2018, most of the Site is currently used for open storage of cranes. One existing *Ficus microcarpa* (細葉榕) in very good condition is found at the north-western corner of the northern Site. According to the layout plan, the existing tree is not in conflict with the proposed development. Adverse impact on landscape resources within the Site from the proposed development is not anticipated.
- (d) Should the application be approved, approval condition on the maintenance of the existing trees within the Site satisfactorily at all times during the planning approval period should be included.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Board should be included.

Nature Conservation

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

He has no comment on the application from nature conservation point of view noting that the Site is located in “OS” zone.

Fire Safety

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

- (a) He has no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

9.1.9 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 connection, operation and maintenance of the inside services within the private lots to WSD's standards.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (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) Before any new building works (including containers/ open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD 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.
- (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 (B(P)R) 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 B(P)R 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):

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

- 9.2 The following Government departments have no comment on the application:
- (a) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
 - (b) Director of Electrical and Mechanical Services (DEMS); and
 - (c) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 9.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.11.2018, no public comment has been received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (vehicle parts) use at the Site which is zoned “OS” on the OZP. The planning intention of the “OS” zone is primarily intended for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. Although the proposed development is considered not entirely in line with planning intention of the “OS” zone, the temporary nature of the proposed development would not jeopardize the long-term planning intention.
- 11.2 According to the applicant, the proposed use intends to serve the vehicle repair workshops in the vicinity. The proposed development is considered not incompatible with the surrounding land uses which are rural in character mixed with open storage/storage yards, workshops, a trailer/tractor park and vacant/unused land.
- 11.3 Relevant departments consulted including C for T, CHE/NTW of HyD, D of FS, CE/MN of DSD and C of P have no adverse comment on the application. To minimize the possible environmental nuisance generated by the development, approval conditions restricting the operation hours and types of vehicles accessing the Site are recommended in paragraph 12.2 (a) and (b). 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. Besides, the applicant will be advised to adopt mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact. Moreover, 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.
- 11.4 No public comment was received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the proposed temporary shop and services (vehicle parts) 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 21.12.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a 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 21.6.2019;
- (f) in relation to (e) above, the implementation of the 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 21.9.2019;
- (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 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 21.6.2019;
- (i) in relation to (h) above, the implementation of the 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 21.9.2019;
- (j) if any of the above planning conditions (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

- (k) if any of the above planning conditions (e), (f), (h) or (i) 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 II**.

- 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 "OS" zone which is for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. 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 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 statement and plans received on 1.11.2018
Appendix Ia	Supplementary information received on 8.11.2018 with replacement pages
Appendix Ib	FI received on 13.12.2018 in response to departmental comments
Appendix II	Advisory Clauses
Drawing A-1	Layout Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2018**