

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-SK/293**

<b><u>Applicant</u></b>	: Power Spread Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lots 783, 785 S.A and 785 RP in D.D. 114, Sheung Tsuen, Shek Kong, Yuen Long
<b><u>Site Area</u></b>	: About 240 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<b><u>Application</u></b>	: Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 5 years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (real estate agency) for a period of 5 years (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site comprises two separate portions, i.e. the eastern portion (about 74m<sup>2</sup>) and the western portion (about 166m<sup>2</sup>). Whilst the eastern portion is paved, fenced and vacant, the western portion is paved and used for parking of goods vehicles.
- 1.2 According to the applicant, the proposed use consists of three two-storey (of about 6m high) structures with a total floor area of about 266m<sup>2</sup> for two independently operating real estate agencies (**Drawings A-1** and **A-2**). No parking spaces and loading/unloading spaces will be provided on-site. The operation hours is from 9:00a.m. to 7:00p.m. daily. The Site is accessible via a local track branching off Kam Sheung Road. The layout plan and floor plan of the development are at **Drawings A-1** and **A-2**.
- 1.3 In support of the application, the applicant has submitted the following

documents:

- (a) Application Form with Planning Statement received on 15.10.2020 **(Appendix I)**
- (b) Further information (FI) received on 1.12.2020 **(Appendix Ia)**  
*(exempted from publication)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**, and are briefly summarized as follows:

- (a) the Site is located in an area predominated by residential and commercial developments, and there is high demand for estate agencies in the area. As such, the provision of the proposed development could provide convenient services to the local community;
- (b) two estate agencies will be operated at the Site, i.e. estate agency A with a floor area of about 98m<sup>2</sup> at the eastern portion and estate agency B with a floor area of about 168m<sup>2</sup> at the western portion (**Drawing A-2**). The estimated number of visitors would be about 30 per day, and there will be 15 staff at the Site. Staff and visitors will rely on public transport to travel from/to the Site;
- (c) the proposed use is considered not incompatible with the surrounding land uses and will not create adverse impact to the surrounding area. Upon approval of the planning application, the applicant will make effort to comply with approval conditions related to fire services and drainage aspects; and
- (d) the applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs) issued by the Environmental Protection Department (EPD) in order to minimize possible environmental impacts to the nearby sensitive receivers.

## **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 (the Ordinance) (TPB PG-No. 31A) by posting site 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 not subject to any active planning enforcement action.

**5. Previous Application**

There is no previous application in respect of the Site.

**6. Similar Application**

There is no similar application for 'Shop and Services' use within the same "V" zone on the OZP.

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

7.1 The Site is:

- (a) currently paved, fenced and vacant at the eastern portion, and is paved and used for parking of goods vehicles at the western portion; and
- (b) accessible via a local track branching off Kam Sheung Road.

7.2 The surrounding areas are rural in character and mainly occupied by domestic dwellings/structures, parking of vehicles, open storage yards and storage yards, plant nurseries, fallow agricultural land and vacant/unused land.

- (a) to its north and northeast are some residential dwellings/structures intermixed with Sheung Tsuen Village Office and a telephone exchange substation. To its further north across Kam Shueng Road is Shueng Tsuen Park;
- (b) to its east and southeast are an area for parking of vehicles, a plant nursery, some residential structures/dwellings, storage yard and fallow agricultural land;
- (c) to its south are a site with a recent planning approval for temporary car park (private cars and light goods vehicles) for 3 years (**Plan A-2**); some residential dwellings and storage yard; and
- (d) to its west and southwest are open storage yards, a plant nursery and unused land.

**8. Planning Intention**

The planning intention of the "V" zone is primarily 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 zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the "V" 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 Houses. 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) should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structure(s) 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 as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD; and
- (c) there is no Small House application approved or currently under processing at the Site.

### **Traffic**

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

having regard to the FI (**Appendix Ia**), he has no comment on the application considering that there is no parking provision or vehicular access to the Site and the induced traffic impact is minimal.

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

he has no comment on the application from highways maintenance point of view, noting that no vehicular access is proposed or to be granted under the application.

### **Environment**

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

- (a) should the application be approved, the applicant is 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” issued by his department to minimise any potential environmental nuisances; and
- (b) there is no environmental complaint concerning the Site received by DEP in the past three years.

### **Drainage**

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

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

### **Building Matters**

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

- (a) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO; and
- (b) for UBW erected on leased land, enforcement action may be taken by 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.

### **Fire Safety**

9.1.7 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, fire service installations (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 where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **District Officers' Comments**

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

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

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

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

## **10. Public Comments Received During Statutory Publication Period**

On 23.10.2020, the application was published for public inspection. During the three-week statutory publication period, a total of 120 public comments were received from a Yuen Long District Council Member, two Indigenous Inhabitant Representatives and Resident Representative of Sheung Tsuen, Chairperson and Vice-chairperson of Sheung Tsuen Village Committee and 110 local residents (in similar letter format) and four individuals (**Appendix II**). All are objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention of "V" zone; it

would attract more traffic to Sheung Tsuen area and may result in illegal parking and traffic congestion; given that there are already about five real estate agencies within 1km radius from the Site, allowing two more agencies at the Site would lead to vicious competition; and the development amidst residential cluster would adversely affect the rural living environment.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services (real estate agency) for a period of 5 years at the Site zoned “V” on the Shek Kong OZP (**Plan A-1**). The planning intention of the “V” zone is primarily 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 this zone is primarily intended for development of Small House development by indigenous villagers. Although the proposed use is not entirely in line with the planning intention of the “V” zone, DLO/YL of LandsD advises that there is no Small House application approved or currently under processing at the Site. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.
- 11.2 According to the applicant, the proposed use is to provide convenient real estate agency services to the local community. The proposed use comprising three two-storey structures with a total floor area of 266m<sup>2</sup> is considered not incompatible with the surrounding areas which are predominantly rural in character and occupied by domestic dwellings/structures, parking of vehicles and fallow agricultural land (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no adverse comment on/no objection to the application from traffic, environmental, drainage and landscape perspectives. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. To minimize the possible environmental nuisance generated by the proposed use, approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. Moreover, the technical requirements of CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2 (b) to (f) below. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.3 Regarding the 120 objecting public comments received during the statutory publication period, the departmental comments and planning considerations and assessment above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department has no objection to the application.

- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 4.12.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 4.6.2021;
- (c) in relation to (b) 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 4.9.2021;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installation 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 4.6.2021;
- (f) in relation to (e) above, the implementation of the fire service installation 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 4.9.2021;
- (g) if any of the above planning condition (a) or (d) 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
- (h) if any of the above planning condition (b), (c), (e) or (f) 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 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 use is not in line with the planning intention of the "V" zone which is to primarily 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. 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**

<b>Appendix I</b>	Application Form received on 15.10.2020
<b>Appendix Ia</b>	Further information (FI) received on 1.12.2020
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Floor Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2020**