

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

APPLICATION NO. A/YL-LFS/307

- Applicant** : Sun Cheong Management Consultant Limited
- Site** : Lot 2093 (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : 500m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8
- Zoning** : “Recreation” (“REC”)
- Application** : Temporary Shop and Services (Retail of Family Goods) with Ancillary 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 temporary shop and services (retail of family goods) with ancillary office for a period of 3 years. The Site falls within an area zoned “REC”. According to the covering Notes of the OZP for “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission for the Board. The applicant currently seeks temporary permission for a period of 3 years.
- 1.2 The Site is accessible from Shan Tung Street via local track (**Drawing A-1**). The ingress/egress is located at the west of the Site (**Plan A-2**). As shown on **Drawing A-2**, there are two temporary structures (converted container) on the Site with a total floor area of 72m². They are one-storey structures for retail shop and another one for office uses (of not exceeding 5m high, with a floor area of not exceeding 36m² each). No parking spaces and loading/unloading space will be provided.
- 1.3 According to the applicant, the operation hours of the Site are from 9:00 a.m. to 7:30 p.m. daily (including Sundays and public holidays).
- 1.4 In support of the application, the applicant has submitted the following documents:

(a) Application form received on 21.12.2018

(Appendix I)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The proposed development is a temporary use which would not jeopardize the long term planning intention of the “REC” zone. The Site is not subject to any land transaction being proposed by the Land Authority for the conversion into low density residential use.
- (b) The nature, form and layout of the proposed development are compatible with the surrounding environment. There are some open storage developments in the “REC” zones in the surrounding areas, which have been approved by the Board for temporary use. Compared with the open storage use, the application use is relatively simple.
- (c) The proposed development provides convenience to the surrounding residents. The opening hour is proposed to be restricted from 9:00 a.m. to 7:30 p.m. daily (including Sundays and public holidays) to compatible with the surrounding environment. No parking and loading/unloading spaces will be provided. There are no adverse traffic, environmental, landscape and drainage impacts from the development.

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

The applicant is not the “current land owner” and has also 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 site notice and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to any active enforcement action. Should a material change of use be identified on Site, which constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

5. **Previous Applications**

- 5.1 The site is the subject of 3 previous applications Nos. A/YL-LFS/28, 45 and 68 for temporary open storage use, which were approved by the Rural and New Town Planning Committee (the Committee) of the Board and the Board. Details of these applications are summarized at **Appendix II** and their location is shown on **Plan A-1**.

5.2 Applications No. A/YL-LFS/28, 45 and 68 for temporary storage of marble, which were approved by the Committee and the Board with conditions for 1 year between 1998 and 2001. Application No. A/YL-LFS/68 was revoked on 26.4.2002 due to non-compliance with landscaping and drainage approval conditions.

6. Similar Application

There is no similar application for temporary shop and services use in the subject "REC" zone on the OZP.

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

7.1 The Site is:

- (a) occupied by two temporary structures (converted container) on the Site. Works are in progress for the proposed development; and
- (b) accessible from Shan Tung Street via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate east and north is fallow agricultural land;
- (b) to its further north and east are mainly open storage yard of plastic and recycling materials/bamboo/sand/construction machinery, parking of trailers and vehicle/large compartments assembly workshop which are suspected UDs; a warehouse for storage of animal feed which is an 'existing use' (EU) tolerated under the Town Planning Ordinance and three residential dwellings (closest around 29m);
- (c) to its west is mainly vacant land and a restaurant which is an EU; and
- (d) to its south and southeast across Deep Bay Road are open storage of marble, scrap metal, recycling and construction materials, which are suspected UDs, vacant land and parking of vehicle, trailers and container vehicles under Application No. A/YL-LFS/283.

8. Planning Intention

The planning intention of the "REC" zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible to Deep Bay Road through both Government land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should the application be approved, the lot owner will need to apply to her office to permit the structures to be erected or regularize 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 Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

He has no adverse comment on the application from traffic engineering point of view.

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

- (a) He has no adverse comment on the application from highways maintenance point of view.
- (b) It is noted that no vehicular access is proposed or to be granted under the application. If the application is approved, it is approved on the understanding that there is or will be no vehicular access to/from the Site.

Environment

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

- (a) No environmental complaint pertaining to the Site has been received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites".

Landscape

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

- (a) The Site, located to the north of Deep Bay Road and lies in an area zoned "REC". The Site is subject to previous applications No. A/YL-LFS/68 and A/YL-LFS/257 (minor overlap) for temporary open storage to which was approved with conditions including landscape related conditions. The current application is seeking planning permission for temporary shop and services for a period of 3 years.
- (b) With reference to the site photos dated 4.1.2018 and aerial photo of 2017, it is observed that the Site is hard paved and without any vegetation. Some temporary structures are observed to be constructed within the Site. The Site is situated in an area of rural landscape character disturbed by open storage yards and temporary structures.
- (c) When comparing the site photos with the aerial photos of 2001 and 2017; the Site is observed to be clear of vegetation then rehabilitated as farmland, and consequently levelled and converted to concrete paved area. In consideration of the previously approved applications (A/YL-LFS/68 and 257), significant change to the landscape character arising from the application is not anticipated. Hence he has no objection to the application from the landscape planning perspective.
- (d) Should the TPB approve this application, in view of the above, he would recommend the inclusion of the following approval condition in the permission:

The submission and implementation of a landscape proposal to the satisfaction of the Director of Planning and or the TPB

- (e) The Applicant is advised that the approval of the application and or landscape proposal does not imply the approval of tree works such as pruning, transplanting and felling under lease. Tree work applications should be submitted direct to DLO for approval.

- (f) The Applicant is advised that a minimum soil provision of 1m (W) x 1m (L) x 1.2m (D) should be provided for each tree.
- (g) In consideration of the temporary nature of the site, the Applicant may wish to propose tree species with a short life span habit.
- (h) Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf) and the Handbook of Tree Management (Chinese Version: https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) published by the GLTM Section, DEVB.

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 application from a drainage point of view.
- (b) Should the Town Planning Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Building Matters

9.1.7 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) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) 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.
- (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) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.

- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of D of FS.
- (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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work / operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the commercial/trading activities, the applicant should arrange disposal properly at her own expenses.

- (c) Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

District Officer's Comments

- 9.1.11 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

Her office has not received any comment from the locals on the application.

- 9.2 The following Government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS); and
- (f) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 29.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 19.1.2018, no public comment was received

11. Planning Considerations and Assessments

11.1 The planning intention of "REC" zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission. Although the applied use is not entirely in line with the planning intention of "REC" zone, there is yet to have any known programme to implement the zoned use on the OZP. The proposed development could also provide shop and services facilities to meet any such demand in the area. Therefore, approval of the application on temporary basis would not frustrate the planning intention of the "REC" zone.

11.2 The proposed temporary use is not incompatible with the land uses in the surrounding area, which is predominately occupied by open storage uses, vehicle parks and workshops (**Plan A-2**).

11.3 There is no adverse comment from the concerned Government departments, including DEP, AC for T/NT of TD, CE/MN of DSD and CTP/UD&L of PlanD. No major adverse impacts on environment, traffic, drainage and landscape are anticipated. Relevant approval conditions have been recommended in paragraph

12.2 to minimize any possible nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the nearby sensitive receivers.

11.4 There is no public comment received on the application during the statutory publication period.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11, the Planning Department considers that the temporary shop and services (retail of family goods) with ancillary office could be tolerated for a period of 3 years.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **9.2.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:30 p.m. and 9:00 a.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 **9.8.2018**;
- (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 **9.11.2018**;
- (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 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 **9.8.2018**;
- (f) in relation to (e) above, the implementation of the 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 **9.11.2018**;
- (g) the submission of a 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 **9.8.2018**;
- (h) in relation to (g) 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 **9.11.2018**;

- (i) if any of the above planning conditions (a) or (d) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if any of the above planning conditions (b), (c), (e), (f), (g) 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; and
- (k) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

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

the applied development is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from such 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 21.12.2017,
Appendix II	Previous applications covering the Application Site
Appendix III	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan

Drawing A-2	Proposed Fire Service Installations Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2018**