

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/436

<u>Applicant</u>	: Mr. Ting Wai Keung represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 1605 RP (Part) in D.D. 119, Kiu Hing Road, Yuen Long, New Territories
<u>Site Area</u>	: 381m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zoning</u>	: “Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Shop and Services (Vehicle Parts Shop) 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 (vehicle parts shop) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The applicant seeks planning permission for 3 years. The Site is currently used for vehicle repair workshop without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site abuts Kiu Hing Road with its ingress and egress at the western periphery of the Site (**Plans A-1 & A-2 and Drawing A-1**). According to the applicant, the ingress/egress is 7.5m wide and one loading/unloading space is provided within the Site. The operation hours of the proposed use are from 11:00a.m. to 4:00p.m., Monday to Sunday (including public holidays). No car washing or repairing works would be carried out within the Site and no parking would be allowed at night to minimize the impact to surrounding area. A layout plan and a plan showing the vehicular access leading to the Site submitted by the applicant are at **Drawings A-1 and A-2**.

1.3 The major development parameters of the application are summarized as follows:

Site Area	about 381m ²
Total Non-domestic Gross Floor Area	221 m ² (about)
Maximum Building Height	Not exceeding 5.5m (1-storey)
No. of loading/unloading space(s) (Drawing A-1)	1 (3.5m x 7m)
Operation Hours	11:00a.m. to 4:00p.m. daily (including Sundays and public holidays)

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

- (a) Application Form with Appendix and Plans received on 28.6.2018 **(Appendix I)**
- (b) Further Information received on 30.7.2018 providing clarification of current use of the Site and responses to Transport Department's comments
[accepted and exempted from publication and recounting requirements] **(Appendix Ia)**
- (c) Further Information received on 8.8.2018 providing revised operation hours and responses to Transport Department's comments
[accepted and exempted from publication and recounting requirements] **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the justification statement of the Application Form at **Appendix I** and further information at **Appendices Ia and Ib**. They can be summarized as follows:

- (a) The Site is formed and fenced off. No filling or excavation of land would be carried out to avoid impact to the surrounding area.
- (b) The Site is accessible via Kiu Hing Road, the width of the ingress/egress is about 7.5m and only one loading/unloading space is proposed to minimize traffic impact to the surrounding areas. Ample space is provided within the Site for vehicular manoeuvring. Vehicles would not queue or reverse at Kiu Hing Road.
- (c) The proposed use is for retail of small vehicle parts such as windshield wipers and mud flaps. The customers will visit the shop on foot. No car washing or repairing works would be carried out within the Site and no parking would be allowed at night to minimize environmental impact.
- (d) As delivery services of the proposed vehicle parts shop will be operated by the applicant, the number of trips proposed will be strictly followed.

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 a notice of the application outside the Site and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The use at the Site is a suspected unauthorized development (UD) under investigation. Should there be sufficient evidence to form opinion that the use on the site constitutes a UD under the Town Planning Ordinance, enforcement action will be taken.

5. Previous Application

The Site is not a subject of any previous application.

6. Similar Applications

6.1 There are two similar applications (No. A/YL-TT/243 and A/YL-TT/276) in the subject “V” zone. Detailed information of the application is at **Appendix II** and the location is shown on **Plan A-1**.

6.2 Application No. A/YL-TT/243 for Temporary Car Cleaning and Ancillary Vehicle Maintenance Area for Private Cars for a Period of 3 Years was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 4.9.2009 on consideration of, amongst others, not in line with the planning intention of the “V” zone, not compatible with the surrounding rural land uses and no technical assessments to address the adverse environmental, traffic and drainage impacts on the surrounding areas.

6.2 Application No. A/YL-TT/276 for Temporary Retail Shop for Restaurant Groceries for a Period of 3 Years in the subject “V” zone which was rejected by the Committee on 18.2.2011 on consideration of, amongst others, not in line with the planning intention of “V” zone, being more akin to a warehouse and not compatible with surrounding rural land uses, and failure to demonstrate that the development would not cause adverse drainage impact on the surrounding areas.

6.3 Detailed information of the application is at **Appendix II** and the location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) abutting Kiu Hing Road to its west (**Plan A-2**);

- (b) hard-paved and fenced off; and
- (c) currently occupied for vehicle repair workshop without valid planning permission and by a temporary structure.

7.2 The surrounding areas have the following characteristics:

- (a) intermixed with fallow agricultural/vacant lands, open storage yards, warehouses, workshop, car services, parking of vehicles and scattered residential dwellings (**Plans A-2 to A-4b**);
- (b) scattered residential dwellings of Muk Kiu Tau Tsuen are mainly located to the north and east of the Site, with the closest one being about 4m away (**Plans A-1 and A-2**);
- (c) to its west across the nullah are areas zoned “Undetermined” (“U”) on the draft Tong Yan San Tsuen OZP No. S/YL-TYST/11 with vehicle repair workshop, car services, warehouses, open storage yards and residential dwellings;
- (d) to the south are some warehouses, open storage yards and residential dwellings; and
- (e) the open storage yards, warehouses, car services and workshops in the vicinity are mostly suspected “unauthorized developments” subject to enforcement action to be taken by the Planning Authority;

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 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 House. 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) The Site is accessible to Kiu Hing Road via Government land (GL). Her office does not provide maintenance works for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) There is no Small House application located within the boundary of the Site, and there are 5 applications under processing and 9 applications within the 30m radius circle of the Site.
- (e) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) 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 premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) The operation hours of the proposed development should be restricted from 11:00 a.m. to 4:00 p.m. daily only.
- (b) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, should be allowed to park or enter/exit the Site.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road area are allowed.

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

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) If the proposed access arrangement is agreed by TD, a proper road connection or run-in/run-out should be constructed to the satisfaction of TD and HyD.

- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the site to nearby public roads/drains.
- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Kiu Hing Road.

Environment

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

- (a) There was no substantial environmental complaint concerning the Site received in the past 3 years.
- (b) The latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department should be observed by the applicant.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of a drainage proposal to the satisfactions of the Director of Drainage Services or of the Board, and maintenance of the drainage facilities should be stipulated.

Landscape

9.1.6 Comments of Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

With reference to the aerial photo of 2018, it is observed that the Site is hard paved and the northern part of the Site is occupied by a temporary structure. No existing vegetation is observed within the Site. The Site is situated in an area of rural landscape disturbed by open storage yards. Significant change to the landscape character arising from the application is not anticipated.

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 (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. In addition, the applicant should also be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, 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.

Building Matters

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

- (a) As there is no record of approval 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 approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any 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 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 works or UBW on the Site under the BO.
 - (iii) 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 BD should be obtained, otherwise they are UBW. An Authorized Person (AP) 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) 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 B(P)R at the building plan submission stage.

District Officer's Comments

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

The local consultation was completed on 27.7.2018 and his office has not received any comments from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comments on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (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 Comment Received During the Statutory Publication Period

On 6.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.7.2018, one public comment (**Appendix III**) was received objecting to the application on the grounds that the proposed use is incompatible with the surrounding land use. The development generates pollution and affects the traffic in the vicinity. The development is also not in line with the planning intention for the area.

11. Planning Considerations and Assessments

11.1 The current application is for proposed temporary shop and services (vehicle parts shop) at the Site zoned "V" on the OZP. The planning intention of the "V" zone is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion and for development of Small Houses by indigenous villagers. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. The proposed use is not entirely in line with the planning intention of "V" zone. However, according to DLO/YL, LandsD, there is no Small House application approved/under processing at the Site currently. In this regard, approval of the application on a temporary basis would not frustrate the long-term planning intention of the zoned use on the OZP.

- 11.2 The proposed use is not entirely incompatible with the surrounding uses which are predominantly rural land uses with scattered residential dwellings of Muk Kiu Tau Tsuen mixed with storage yards, car parks, workshops and some agricultural land and unused land (**Plan A-2**).
- 11.3 Government departments consulted, including C for T, DEP, CHE/NTW, HyD, DEP, CE/MN, DSD, CTP/UD&L, PlanD and D of FS have no objection to or adverse comment on the application. Significant adverse traffic, environmental, infrastructural, landscape and fire safety impacts on the surrounding area are not envisaged. To minimize any possible environmental nuisances generated by the temporary use or to address the technical requirements of other concerned government departments, relevant approval conditions are also recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 11.4 There are two similar applications within the subject “V” zone and both were rejected by the Committee on the grounds of inter alia, not compatible with surrounding rural land uses and failure to demonstrate that the developments would not cause adverse impacts on the surrounding areas.
- 11.5 Should the application be approved, the applicant should be advised that the development/use not under application (i.e. vehicle repair workshop use) which currently exists on the Site is not condoned by the approval.
- 11.6 There is one public comment received on the application during the statutory publication period objecting to the application for reasons as summarized in paragraph 10 above. The planning consideration and assessment in paragraphs 11.1 to 11.5 are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department considers that the temporary shop and services (vehicle parts shop) 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 3 years until 17.8.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 4:00 p.m. and 11:00 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 tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site, at any time during the planning approval period;

- (c) no car washing and car repairing activities, as proposed by the applicant, at any time during the planning approval period;
- (d) no vehicle is allowed to be parked at night within the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 17.2.2019;
- (g) the submission of a road connection or run-in/run-out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 17.2.2019;
- (h) in relation to (g) above, the implementation of the road connection or run-in/run-out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 17.5.2019;
- (i) 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 17.2.2019;
- (j) in relation to (i) 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 17.5.2019;
- (k) in relation to (j) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (l) 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 17.2.2019;
- (m) in relation to (l) 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 17.5.2019;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e) or (k) 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;

- (o) if any of the above planning conditions (f), (g), (h), (i), (j), (l) or (m) 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
- (p) upon the 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 IV**.

- 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 "V" zone which is primarily for development of Small Houses by indigenous villagers. 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with Appendix and Plans received on 28.6.2018
Appendix Ia	Further Information received on 30.7.2018
Appendix Ib	Further Information received on 8.8.2018
Appendix II	Similar Applications within the Same "V" Zone on the OZP
Appendix III	Public comment received during the statutory publication period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2018**