

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/466

<u>Applicant</u>	:	Mr. TSANG Sin Tung represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1207 RP (Part) in D.D. 118, Tai Tong, Yuen Long, New Territories
<u>Site Area</u>	:	307 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural purposes)
<u>Plan</u>	:	Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zonings</u>	:	“Other Specified Uses” annotated “Rural Use” (“OU(RU)”) (63.2%) [restricted to a maximum plot ratio of 0.4 and building height of 3 storeys (9m)] “Open Storage” (“OS”) (36.8%)
<u>Application</u>	:	Temporary Shop and Services (Motor-vehicle Showroom) 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 (motor-vehicle showroom) with ancillary office for a period of 3 years (**Plan A-1**). According to the Covering Notes of the OZP, ‘Shop and Services’ is a Column 2 use for both the “OU(RU)” and “OS” zones, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Tai Shu Ha Road West to its northeast via a short local track (**Plan A-2**). According to the applicant, the proposal is intended to serve the local residents. The development consists of one temporary structure (about 228 m²) with a canopy (about 45 m²). Hydraulic car lifts/racks will be used for displaying vehicles, and a total of five vehicles without licence will be displayed at the Site. There would be two staff working on site. One parking space for visitors would be provided at the Site and would be available for use with prior

booking. Plans showing the vehicular access, site layout, cross section and swept path of vehicles submitted by the applicant are at **Drawings A-1 to A-4**.

- 1.3 The major development parameters of the current application are summarised as follows:

Site Area	307 m ² (about)
Total Floor Area (Non-domestic)	273 m ² (about)
No. of Structures	2 <ul style="list-style-type: none"> • One for Vehicle Showroom and Ancillary Office • One for Canopy for Vehicle Displaying
Height of Structures	8.23m (1 storey, measured to the ridge of the pitched roof)
Parking Spaces	1 for Private Car (5m x 2.5m)
Loading/ Unloading Spaces	--
Operation Hours	10:00 a.m. to 6:00 p.m. daily

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

- (a) Application Form with plans received on 16.4.2019 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information received on 29.4.2019 **(Appendix Ib)** providing replacement pages and revised plans
- (d) Further Information received on 22.5.2019 providing **(Appendix Ic)** clarification on the operation mode and revised plans
[accepted and exempted from publication and recounting requirements]

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 Ia**, supplementary information at **Appendix Ib** and further information at **Appendix Ic**. They can be summarised as follows:

- (a) The use is temporary in nature and is not incompatible with the surrounding rural uses. No excavation or filling of land is involved.
- (b) The Site abuts Tai Shu Ha Road West. The employees and customers may access the Site by public minibus. No parking space will be provided to employees. No vehicles exceeding 5.5 tonnes would be allowed to enter the Site. There is sufficient manoeuvring space within the Site (**Drawing A-4**), and no vehicles are allowed to queue back to or reverse onto/from public road.

- (c) Fire services installation (FSI), landscape and drainage proposals would be submitted and implemented should the application be approved by the Board, where appropriate. No workshop activities would take place at the Site, including vehicle repairing and car washing, etc. Septic tank would be used in accordance with the requirements of the relevant Professional Persons Environmental Consultative Committee Practice Notes.
- (d) The high ceiling space is needed to accommodate ventilation and lighting installations while double-deck hydraulic car racks will be placed underneath for displaying vehicles (**Drawing A-3**). The proposed height is considered justified.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone’ (TPB PG-No. 38) are relevant to the application. The relevant extract of the Guidelines is attached at **Appendix II** and the assessment criteria are summarised as follows:

Application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

7.1 There are 4 similar applications for various shop and services uses (No. A/YL-TT/362, 400, 408 and 414) within the subject “OU(RU)” zone. There are no similar applications within the subject “OS” zone. Detailed information of the

applications is at **Appendix III** and the locations of the sites are shown on **Plan A-1**.

- 7.2 Applications No. A/YL-TT/362 and 414 for temporary shop and services (grocery store) were approved with conditions by the Committee each for a period of three years on 6.11.2015 and 8.12.2017 respectively, mainly on the considerations that the proposed shop and services could serve such needs in the surrounding areas; approval of the application on a temporary basis would not jeopardise the long-term planning intention; the proposed development was not incompatible with the surrounding area; and the application was generally in line with TPB PG-No. 38. The former application was subsequently revoked on 6.12.2017 due to non-compliance with approval conditions on provision of boundary fencing, implementation of landscape proposal and FSIs proposal, etc.
- 7.3 Applications No. A/YL-TT/400 and 408 for temporary shop and services (retail store for pet food) were approved with conditions by the Committee each for a period of three years on 28.4.2017 and 11.8.2017 respectively on similar considerations as the aforementioned approvals.

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

8.1 The Site is:

- (a) accessible from Tai Shu Ha Road West to its northeast via a short local track (**Plan A-2**);
- (b) paved and partly fenced off; and
- (c) occupied by the applied use without valid planning permission.

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) predominately warehouses and open storage/storage yards, intermixed with scatter residential structures, a canteen, car service and vacant/unused land; and
- (b) except for the open storage/storage yards, warehouses, canteen and car service in the “OS” zone, the other open storage/storage yards and warehouses in the “OU(RU)” zone in vicinity of the Site are mostly suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intentions

9.1 The planning intention of the “OU(RU)” zone is for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities.

- 9.2 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise 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.

10. Comments from Relevant Government Departments

- 10.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 10.1.1 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 from Tai Shu Ha Road West via government land (GL). Her office does not provide maintenance work for the 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) 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 regularise any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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 her department acting in the capacity as 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 her department.

Traffic

- 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the proposed ingress/egress arrangement

and no adverse comment on the application from traffic engineering viewpoint.

- (b) 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 are allowed.
- (c) The land status of the access road/path/track leading to the Site from Tai Shu Ha Road West should be checked with the lands authority.
- (d) The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly.

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

- (a) The access arrangement should be commented by the Transport Department (TD).
- (b) If the proposed access arrangement is agreed by TD, a proper run-in/out or road connection to Tai Shu Ha Road West should be constructed to the satisfactory 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) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Shu Ha Road West.

Environment

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

The applicant is advised to follow the relevant mitigation measures and requirement in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) issued by the Environmental Protection Department to minimise any potential environmental nuisance.

Drainage

10.1.5 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 Board consider that the application is acceptable from the planning point of view, approval conditions should be stipulated requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSI 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 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 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.

Building Matters

10.1.7 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 for the existing structures of the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the captioned application.
- (c) 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.

- (d) 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 under the BO. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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.
- (f) 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

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

Her office has not received any comment from the village representatives in the vicinity regarding the application.

10.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 30.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.5.2019, one public comment (**Appendix IV**) was received raising concerns on the traffic impact of the development to Tai Shu Ha Road West.

12. Planning Considerations and Assessments

12.1 The subject application is for temporary shop and services (motor-vehicle showroom) with ancillary office for a period of three years at a site mainly zoned "OU(RU)" and partly zoned "OS" on the OZP. Although the applied use is not entirely in line with the planning intentions of the "OU(RU)" and "OS" zones,

which are intended for the preservation of the character of the rural area and for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses respectively, nevertheless, the proposed use is intended to serve local residents and could meet any such demand in the area. There is no known programme for the long-term development of the Site. As such, approval of the application on a temporary basis for three years would not frustrate the long-term planning intention of the area.

- 12.2 The Site is adjacent to the major public road of Tai Shu Ha Road West and is considered not incompatible with the surrounding uses which are predominately warehouses and open storage/storage yards intermixed with some residential structures in the vicinity (**Plan A-2**).
- 12.3 Relevant government departments, including C for T, DEP, CE/MN, DSD, AFCD and CE/C, WSD, have no adverse comment/no comment on the application and significant adverse traffic, environmental and drainage impacts on the surrounding area are not envisaged. The proposal would unlikely affect the rural environment, landscape and character of the area and would not overstrain the capacity of existing and planned traffic, sewerage and water supply infrastructure; the application is generally in line with TPB PG-No. 38. Relevant approval conditions are recommended in paragraph 13.2 to address the technical requirements of the concerned departments and to minimise any possible environmental concerns arising from the applied use. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the Code of Practice in order to minimise any potential environmental impact.
- 12.4 Given that 4 similar applications for various temporary shop and services uses have been approved within the same “OU(RU)” zone, approval of the subject application is considered in line with the Committee’s previous decisions.
- 12.5 There is one public comment received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 31.5.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 10:00 a.m., as proposed by the

applicant, is allowed on the Site during the planning approval period;

- (b) no vehicle repairing, car washing or any other workshop activities, as proposed by the applicant, are allowed on the Site during the planning approval period;
- (c) 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, as proposed by the applicant, at any time 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 run in/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 30.11.2019;
- (f) in relation to (e) above, the implementation of run in/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 29.2.2020;
- (g) 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 30.11.2019;
- (h) in relation to (g) 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 29.2.2020;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) 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 30.11.2019;
- (k) in relation to (j) 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 29.2.2020;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (i) 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
- (m) if any of the above planning conditions (e), (f), (g), (h), (j) or (k) 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 V**.

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

the development is not in line with the planning intentions of the "OU(RU)" and "OS" zones which are primarily intended for the preservation of the character of the rural area and for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses respectively. No strong planning justification has been given in the submission to justify a departure from the planning intentions, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with plans received on 16.4.2019
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information received on 29.4.2019 providing replacement pages and revised plans
Appendix Ic	Further Information dated 22.5.2019 providing clarification on the operation mode and revised plans
Appendix II	Relevant extract of the Town Planning Board Guidelines for 'Designation of "OU(RU)" Zone and Application for Development within "OU(RU)" Zone' (TPB PG-No. 38)
Appendix III	Similar Applications within the subject "OU(RU)" Zone on the OZP
Appendix IV	Public Comment Received During Statutory Publication Period

Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Section Plan
Drawing A-4	Swept Path Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2019**