

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

**APPLICATION NO. A/YL-TT/483**

<b><u>Applicant</u></b>	:	Mr. CHIU Yi represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lot 4219 (Part) in D.D. 116, Tai Tong, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	210m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<b><u>Zoning</u></b>	:	“Open Space” (“O”)
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services (Grocery Shop) 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 (grocery shop) for a period of 5 years (**Plan A-1**). According to the Notes of the OZP for “O” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is not involved in any previous application and is currently occupied by a temporary warehouse with staff quarters operating without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the proposal is mainly intended to serve the nearby residents of Tai Kei Leng, selling daily necessities such as rice, cooking oil and condiments, etc. Local customers are expected to walk to the Site and therefore no parking spaces for customers are proposed. The proposed parking space is reserved for staff use, and two staff members are expected to work at the Site. No manufacturing or other workshop activities will be carried out at the Site, and no vehicles would queue back or reverse onto/from public roads. Plans showing the vehicular access leading to the Site, site layout and the swept path analysis submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	210m <sup>2</sup> (about)
Total Floor Area (Non-domestic)	208.1m <sup>2</sup> (about)

No. and Height of Structures	2 (about 5.8m, 1-2 storeys)
Parking Spaces	1 (for private car, 2.5m x 5m)
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 Appendix and Plans received on 22.8.2019 (Appendix I)
- (b) Supplementary Information received on 26.8.2019 providing a revised layout plan (Appendix Ia)

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

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

- (a) The proposal is temporary in nature and would not jeopardise the long-term planning intention of the “O” zone. The Board has approved one similar application (No. A/YL-TT/415) to the immediate west of the Site; similar considerations should be given to the current application.
- (b) The applicant will 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” (Code of Practice) and other guidelines to minimise any potential environmental nuisances on the surrounding area.
- (c) Should the application be approved, the applicant undertakes to comply with all relevant approval conditions imposed by the Board, such as on drainage, landscape and fire safety aspects. The applicant would also reinstate the Site to an amenity area upon the expiry of the planning permission.

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

## 4. **Background**

The Site is currently not subject to planning enforcement action.

## 5. Previous Application

The Site is not the subject of any previous application.

## 6. Similar Application

There is one similar application (No. A/YL-TT/415) for proposed temporary shop and services (vehicle parts retail shop) for a period of 3 years within the same “O” zone on the OZP. This application was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2017 mainly on the considerations that the proposed development would not jeopardise the long-term development of the site; the proposed use was not incompatible with the surrounding land uses; and concerns from relevant departments can be addressed by approval conditions. Details of the application are summarised in **Appendix II** and the location of the site 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) accessible via a local track leading from Tai Shu Ha Road East to its west (**Plan A-2**);
- (b) paved and fenced off; and
- (c) currently occupied by a temporary warehouse with staff quarters operating without valid planning permission.

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

- (a) mixed in character predominantly with residential structures, intermixed with open storage/storage yards, parking of vehicles, welfare associations, a vehicle repair workshop, a latrine, some agricultural land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest ones located to its immediate east and west (**Plan A-2**);
- (c) to its immediate west is a vehicle repair workshop, the site of which is the subject of a valid planning permission (No. A/YL-TT/415) for proposed temporary shop and services (vehicle parts retail shop) with validity up to 22.12.2020;
- (d) to its further north beyond the local track is an open nullah, Long Ho Road and Yuen Long Highway; and
- (e) except for an open storage yard to the further south, the aforementioned open storage/storage yards, parking of vehicles, welfare associations and vehicle repair workshop in the vicinity of the Site are suspected

unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

## **8. Planning Intention**

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

## **9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application and the public comments received, where relevant, 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) Within the Site, Lot No. 4219 in D.D.116 is currently covered by Short Term Waiver (STW) No. 4916 to permit structures erected thereon for the purpose of “Temporary Shop and Services (Vehicles Parts Retail Shop)”.
- (c) The Site is accessible from Tai Shu Ha Road East via Government Land (GL) and private land. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. 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 of 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 her department.

### **Traffic**

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

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

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.
- (b) His department is not/shall not be responsible for the maintenance of any access connecting the Site and Tai Shu Ha Road East.

### **Environment**

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

- (a) With respect to the public concern on noise nuisance from the proposed development (**Appendices III-7 to 10**), according to the complaint record, no substantiated complaint was received in the past three years. Based on the submitted application, the operation hour will be from 10:00 a.m. to 6:00 p.m. daily and no workshop activity will be carried out. Should the application be approved, please consider imposing planning conditions to control the operation hour and prohibit workshop activity at the Site.
- (b) The applicant is reminded that it is his obligation to comply with all relevant ordinances in Hong Kong. In addition, the applicant is advised to follow the relevant mitigation measures and requirements in the revised Code of Practice to minimise any potential environmental nuisance.

### **Landscape**

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) With reference to the aerial photo of 2018 (**Plan A-3**), the Site is hard paved and the majority of the Site is occupied by an existing temporary structure. No existing tree is observed within the Site. The Site is situated in an area of rural landscape character predominated by open storage yards and temporary structures. The proposed use is not incompatible with the surrounding landscape character.
- (c) As the Site is not situated in a landscape sensitive zone and not adjoining any prominent public frontage, it is considered not necessary to impose a landscape condition should the application be approved by the Board.

**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 Board consider that the application is acceptable from the planning point of view, approval conditions 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 should be stipulated.

**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. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. 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 FSIs 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 services 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 granted 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 the approval of the BA, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorised Person 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.

### **Other**

#### 9.1.9 Comments from the Director of Leisure and Cultural Services (DLCS):

- (a) She has no in-principle objection to the application as the application involves private lot only.
- (b) The Site is zoned “O” and is not on the priority list for development agreed by the Yuen Long District Council. She has no plan to develop the Site into public open space at present.

### **District Officer’s Comments**

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

Her office has not received any locals’ comment on the application and she has no comment from departmental point of view.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (e) Commissioner of Police (C of P).

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

On 30.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.9.2019, 15 public comments were received from individuals (**Appendices III-1 to 15**) objecting to the application on the grounds that the proposal would aggravate traffic congestion in the area; generate noise nuisance and pose fire safety/road safety concerns to the surrounding area; there are alleged illegal immigrant workers working at the Site; there are alleged illegal hard paving of GL for parking of vehicles near the Site; the proposal would disrupt the tranquillity of the area; and that the Site should be put to recreational use and be incorporated into a district cycle path/trail, etc.

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

- 11.1 The subject application is for proposed temporary shop and services (grocery shop) for a period of 5 years at a site zoned “O” on the OZP. Although the proposed development is not in line with the planning intention of the “O” zone, DLCS currently has no plans to develop the Site into public open space use. As such, approval of the application on a temporary basis of 5 years would not jeopardise the planning intention of the “O” zone and the long-term development of the area.
- 11.2 The proposed development is considered not incompatible with the surrounding uses which are mixed in character predominantly with a major highway (Yuen Long Highway), an open nullah and residential structures, intermixed with open



storage/storage yards, parking of vehicles, vehicle repair workshop and welfare associations, etc. (**Plan A-2**).

- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD, D of FS and DEP. There has been no substantiated environmental complaint concerning the Site received in the past three years. To address the public concerns and technical requirements of other concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. 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 latest Code of Practice in order to minimise any potential environmental impact on the surrounding area and to reinstate the Site into an amenity area upon expiry of the planning permission.
- 11.4 Given that one similar application for temporary shop and services use has been approved in the subject "O" zone, approval of the current application is in line with the Committee's previous decision.
- 11.5 15 public comments were received on the application during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 mentioned in paragraph 10 above, 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 18.10.2024. 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 manufacturing or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (c) only private car, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site 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 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 18.4.2020;
- (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 18.7.2020;
- (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 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 18.4.2020;
- (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 18.7.2020;
- (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;
- (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; and
- (l) 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 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 "O" zone, which is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. 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 22.8.2019

**Appendix Ia** Supplementary Information received on 26.8.2019 providing a revised layout plan

**Appendix II** Similar Application within the subject “O” Zone on the OZP

**Appendices III-1 to 15** Public Comments received during the Statutory Publication Period

**Appendix IV** Recommended Advisory Clauses

**Drawing A-1** Vehicular Access Plan

**Drawing A-2** Site Layout Plan

**Drawing A-3** Swept Path Analysis

**Plan A-1** Location Plan with Similar Application

**Plan A-2** Site Plan

**Plan A-3** Aerial Photo

**Plans A-4a to A-4b** Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2019**