

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/269

<u>Applicant</u>	: Silver Prosperous Limited represented by Goldrich Planners & Surveyors Limited
<u>Site</u>	: Lot 1727 RP in D.D. 120 and adjoining Government Land (GL), Yuen Long, New Territories
<u>Site Area</u>	: 392m ² (about) (including about 73m ² of GL (about 18.6%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/23
<u>Zoning</u>	: "Government, Institution or Community (1)" ("G/IC(1)") <i>[restricted to a maximum building height (BH) of 3 storeys (or 8 storeys for School 'and Hospital 'uses)]</i>
<u>Application</u>	: Proposed Temporary Shop and Services (Retail Shops with Ancillary Offices) for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (retail shops with ancillary offices) for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for "G/IC(1)" zone, 'Shop and Services' is a Column 2 use which requires planning permission from the Town Planning Board (the Board). For temporary uses of any land or building expected to be over 5 years, the uses must conform to the zoned use. The Site is currently occupied by a carpark (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed use comprises 2 two-storey structures for retail shops and ancillary offices with a total gross floor area (GFA) of about 392m², and site coverage of 50%. The operation hours of the proposed temporary retail shops are from 8:00 a.m. to 9:00 p.m. daily. No vehicle will be allowed to enter or park on the Site. The location plan, lot index plan, layout plan, and drainage proposal submitted by the applicant are shown in **Drawings A-1 to A-4**.

1.3 The major development parameters of the applied use are as follows:

Site Area	About 392m ² (including Government Land of about 73m ²)
Total Gross Floor Area (Non-domestic)	About 392m ²
No. of Structure	2
Maximum Height of Structure	2 storeys (7m)
Operation Hours	8:00 a.m. to 9:00 p.m. daily

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

- (a) Application form with attachments received on 16.10.2020 **(Appendix I)**
- (b) Further Information received on 18.11.2020 in response to the comments from the Drainage Services Department (DSD) and Highways Department (HyD) **(Appendix Ia)**
(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 **Appendix I**. They can be summarised as follows:

- (a) The proposed use aims at serving the residents living in the vicinity. The retail shops on the ground level will be used for selling groceries and necessities. The upper level will be used as ancillary offices.
- (b) The 2-storey structures are compatible with the surrounding environment which comprises mainly domestic structures of 1 to 2 storeys. No adverse visual impact to the surroundings is anticipated.
- (c) There is an existing pedestrian access at the western part of the Site. Customers are expected to visit the retail shops on foot or by taking public transport. Limited loading and unloading activities will be carried out at the adjacent carpark during non-peak hours, and trolley will be used to transfer goods between the proposed shops and the goods vehicles. Therefore, limited traffic impact is anticipated.
- (d) Given that the surrounding environment is highly urbanized and only limited number of retail shops and office spaces are available, the proposed use serves to meet the needs of the local community.

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. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the GL portion.

4. **Previous Application**

The Site is not subject to any previous application.

5. **Similar Application**

There is 1 similar application (No. A/YL/219) for proposed permanent office and shop and services cum public open space within the same “G/IC(1)” zone on the OZP which was rejected by the Committee on 22.4.2016. The reasons for rejection of the application were that the proposed development was not in line with the planning intention of the “G/IC” zone, and approval of the application would set an undesirable precedent for similar applications. Details of the application is summarised in **Appendix III** and the location of the site is shown on **Plan A-1**.

6. **The Site and Its Surrounding Areas (Plans A-1 to A-4)**

6.1 The Site is:

- (a) located at the junction of Tai Tong Road and Shap Pat Heung Road, and in the southern fringe of Yuen Long New Town;
- (b) accessible from Tai Tong Road (**Plan A-2**); and
- (c) currently occupied by a carpark.

6.2 The surrounding areas have the following characteristics:

- (a) to its north are land occupied for workshop, residential use, car service, shop and services, and vacant land;
- (b) to its immediate east is a car park, and to its further east is a food factory and shrubland;
- (c) to its immediate south are vacant land and bicycle parking and to its further south across Shap Pat Heung Road are construction site and medium-rise residential buildings; and
- (d) to its west across Tai Tong Road are food factory, petrol filling station, residential uses and a car park.

7. Planning Intention

The planning intention of “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

8. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises GL and 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) No permission is given for occupation of GL (about 73m² subject to verification) included in the Site. Attention should be drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize ant irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicant has to exclude the GL portion from the Site. Applications for any of the above will be considered by LandsD 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(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no comment from highways maintenance point of view.
- (b) The applicant is reminded that the application is approved on the understanding that there is and will be no vehicular access to/from the Site.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) He has no objection to the application.
- (b) The proposed development would not involve operation of heavy vehicles nor dusty operations, while there is sensitive receiver within 100m from the site boundary. Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“CoP”) issued by DEP to minimise potential environmental nuisance to the surrounding area.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Landscape

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

The Site is not the subject of any previous planning application. With reference to the aerial photo of 2020, the Site is entirely hard paved and used as private vehicle park. No existing vegetation is observed within the Site. The Site is situated in an area of miscellaneous rural fringe landscape character. Significant change to the character arising from the application is not anticipated.

Drainage

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

He has no objection in principle to the proposed development from the public drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant (i) the submission of a drainage proposal and (ii) the implementation and maintenance of the drainage proposal for the development to his/the Board's satisfaction.

Fire Safety

8.1.6 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; and
 - (ii) the location of where the proposed FSIs should be clearly marked on the layout plans.
- (c) In addition, 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

8.1.7 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, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (b) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (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 [B(P)R] respectively;
- (d) the Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage;
- (e) any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings are subject to the control of Part VII of the B(P)R;
- (f) adequate fire separation should be provided between office and shop under Subsection C7 of the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
- (g) means of Escape requirement under FS Code should be followed, e.g. width of stair; and
- (h) detailed checking under the BO will be carried out at building plan submission stage.

Others

8.1.8 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no comment on the planning application.
- (b) Other detailed comments are at **Appendix IV**.

District Officer's Comments

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

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

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

- (a) Commissioner for Transport (C for T);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager (West) (PM(W)), CEDD;
- (d) Commissioner of Police (C of P);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) Director of Leisure and Cultural Services (DLCS).

9. Public Comments Received During Statutory Publication Period

On 23.10.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 2 public comments were received from individuals including 1 opposing the application and 1 providing views on the application (**Appendix II**). An individual objects to the application mainly on the ground that anticipated commercial activities within the proposed development may affect the rural lifestyle and environment. The other public comment raised concern about the inadequate supply of community services in the area.

10. Planning Considerations and Assessments

10.1 The application is for proposed temporary shop and services (retail shops with ancillary offices) for a period of 6 years within the “G/IC(1)” zone on the OZP. The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. Although the proposed use is not entirely in line with the planning intention of the “G/IC” zone, the proposed retail shops could provide retail services to meet the needs of the local community. As such, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “G/IC” zone.

10.2 The proposed use comprises 2 two-storey temporary structures (7m high) with a total GFA of about 392m². It is considered that the proposed use and the development scale is not incompatible with the surrounding uses which are intermixed with factories, workshops, petrol filling station, carparks and vacant land.

10.3 Relevant government departments consulted, including C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD have no objection to or adverse comment on the application. Significant adverse traffic, environmental, drainage, sewerage and landscape impacts on the surrounding areas are not envisaged. Appropriate approval conditions are suggested in paragraph 11.2 below to minimize any possible environmental nuisances on the surrounding areas or to address the technical requirements of the concerned government departments.

- 10.4 There are 2 public comments received on the application during the statutory publication period as summarized in paragraph 9 above. The planning considerations and assessment in the above paragraphs are relevant.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department has no objection to the proposed temporary shop and services (retail shops with ancillary offices) for a period of 6 years.
- 11.2 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 6 years until 4.12.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.6.2021;
- (d) in relation to (c) above, the implementation of the drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.9.2021;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 4.6.2021;
- (g) in relation to (f) 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 4.9.2021;
- (h) if any of the above planning conditions (a), (b) or (e) 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

- (i) if any of the above planning conditions (c), (d), (f) or (g) 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 IV**.

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

the proposed use is not in line with the planning intention of the "G/IC" zone, which is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application form with attachments received on 16.10.2020
Appendix Ia	Further Information received on 18.11.2020
Appendix II	Public comments
Appendix III	Similar application within the same "G/IC(1)" zone on the OZP
Appendix IV	Recommended advisory clauses
Drawing A-1	Location plan

Drawing A-2	Lot index plan
Drawing A-3	Layout Plan
Drawing A-4	Drainage proposal
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2020**