

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

**APPLICATION NO. A/HSK/291**

- Applicant** : Lead Rise International Limited represented by R-riches Property Consultants Limited
- Site** : Lot 107 RP (Part) in D.D.128, Ha Tsuen, Yuen Long
- Site Area** : 508 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
- Zoning** : “Government, Institution or Community” (“G/IC”) (75.2%); and  
*[Restricted to maximum building height of 3 storeys]*  
  
“Village Type Development” (“V”) (24.8%)  
*[Restricted to maximum building height of 3 storeys (8.23m)]*
- Application** : Proposed Temporary Shop and Services with Ancillary Office 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 with ancillary office for a period of 5 years (**Plan A-1**). The Site falls mainly within the “G/IC” zone (75.2%) with minor portion within “V” zone (24.8%) on the approved HSK and HT OZP. According to the covering Notes of the OZP, ‘Shop and Services’ is a Column 2 use in both “V” and “G/IC” zones which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by some vacant converted container structures and a rain shelter with some parking of vehicles without valid planning permission.
- 1.2 The Site is accessible to Fung Kong Tsuen Road via a local track with ingress/egress at the southern part of the Site (**Plans A-2 and A-3 and Drawing A-1**). As shown on the proposed layout plan (**Drawing A-1**), three single-storey temporary structures of 4m high with a total floor area of 326m<sup>2</sup> for shop and services use with ancillary storage of goods, office and a rain shelter (69m<sup>2</sup>) are proposed. 2 parking spaces for private cars (5m x 2.5m) and one

loading/unloading bay (7m x 3.5m) for light goods vehicle are also proposed. The remaining area of the Site is for manoeuvring space. According to the applicant, the Site will be used for the retail of car products including mud flap, windscreen wiper, car key, car fragrance, etc. Medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer will be prohibited to be parked or stored at the Site. The estimated maximum number of visitors per day are about 15 and estimated number of staff working are about 10. Visitors are required to make appointment in advance to access to the Site. The operation hours are from 9a.m. to 6p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays.

- 1.3 A summary of the major development parameters of the applied use is given in the following table:

<b>Applied Use</b>	Proposed shop and services with ancillary office (5 Years)
<b>Site Area</b>	508m <sup>2</sup>
<b>Total Floor Area</b>	326m <sup>2</sup>
<b>No. and Use of Structures</b>	3 (2 for shop and services with ancillary storage of goods and office and 1 for rain shelter)
<b>No. of Parking Spaces</b>	2 for private cars (5m x 2.5m)
<b>No. of Loading/Unloading Space</b>	1 for light goods vehicle (7m x 3.5m)
<b>Operation Hours</b>	9 a.m. to 6 p.m. Mondays to Saturdays excluding Sundays and public holidays

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

- (a) Application Form with plans received on 19.1.2021 (Appendix I)
- (b) Further Information (FI) dated 2.2.2021 providing trip generation rate (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 the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The proposed shop and services (car product) business is intended to provide convenience to nearby residents.
- (b) The Site is zoned “G/IC” and “V” on the OZP where ‘Shop and Services’ is a Column 2 use in both “V” and “G/IC” zones. Since the application is only on a temporary basis, it will not jeopardize the long-term planning intentions of these zones.
- (c) The applicant will follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimize any potential environmental nuisance to the surrounding area.

- (d) The proposed development will not create significant traffic, environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures will be provided after planning approval has been granted, i.e. submission of drainage and fire service installations proposals to mitigate any adverse impact arising from the proposed development.

### **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 site notice and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Site is currently not subject to planning enforcement action.

### **5. Previous Application**

The Site is not the subject of any previous planning application.

### **6. Similar Applications**

- 6.1 There are three similar applications (No. A/HSK/193, 233 and 255) for temporary shop and services and/or wholesale trade uses within the same “G/IC” and “V” zones. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Applications No. A/HSK/193 and 255 for proposed temporary shop and services with ancillary office for a period of 3 years and temporary wholesale trade and shop and services use for a period of 5 years at a site falling entirely within the “G/IC” zone respectively, were rejected by the Committee of the Board on 29.11.2019 and 20.11.2020 for the reasons of not in line with the planning intention of the “G/IC” zone; not compatible with the surrounding land uses which are predominantly residential in nature; and/or setting of an undesirable precedent for similar applications.
- 6.3 Application No. A/HSK/233 for temporary shop and services use for a period of 3 years at a site falling mainly within “V” zone (72.6%) with minor portion within “G/IC” zone (27.4%), was approved with conditions by the Committee on 15.9.2020 on the consideration that approval of the application on a temporary basis would not jeopardize the long-term development; the applied use was of small scale in terms of proposed floor area (230m<sup>2</sup>); and no adverse comment from concerned Government departments.

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

### **7.1 The Site is:**

- (a) partly fenced, hard-paved and currently occupied by some converted container structures and a rain shelter with some parking of vehicles without valid planning permission; and
- (b) accessible from Fung Kong Tsuen Road via a local track (**Plan A-3**).

### **7.2 The surrounding areas have the following characteristics:**

- (a) to its immediate north is an open storage yard of construction materials while to its further north and northeast are some village houses and residential dwellings (the nearest one being about 23m away) within the “V” zone of Fung Kong Tsuen (**Plans A-2 and A-3**);
- (b) to its immediate east is a grassland and an open storage yard of construction materials and vehicles;
- (c) to its south are several open storage yards of construction and recyclable materials and a vehicle repair workshop, while to its further south are several open storage yards of construction and recyclable materials within the “Other Specified Uses” annotated “Port Back-up, Storage and Workshop Uses” (“OU (PBU&SWU)”) zone and a fish farm under valid planning permission; and
- (d) to its immediate west are some unused land while to its further northwest is an open storage yard of recycling materials.

## **8. Planning Intentions**

- 8.1 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.
- 8.2 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 this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this 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 (NTEH). 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 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 Lots 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) According to his record, there is no Small House application approved/under processing for the Site.
- (c) Should the application be approved, the lot owner(s) of the lot(s) will need to apply to his office for permitting the structures to be erected or to regularize 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. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(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) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

#### **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 TD.
- (b) Adequate drainage measures should be provided to prevent surface water flowing from the Site to the nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen Road.

### **Environment**

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

Should the planning application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP').

### **Drainage**

#### 9.1.5 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 a drainage point of view.
- (b) Should the application be approved, he would suggest that a condition should be stipulated requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

### **Building Matter**

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site.
- (b) The applicant should be reminded of the detailed comments in **Appendix IV**.

### **Fire Safety**

#### 9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection 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.
- (c) The applicant should be reminded of the detailed comments in **Appendix IV**.

### **Long Term Development**

#### 9.1.8 Comments of the Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD):

- (a) He has no objection to the temporary use for 5 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA). To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within a site under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Remaining Phase development will commence in 2030.

### **District Officer's Comments**

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

- (a) He has no comment on the application from departmental point of view.
- (b) His office has not received any comment from the locals on the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 26.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received. They raised concerns that the development will generate environmental pollution, fire risk and pose safety hazards to the villagers, and that approving the application would cause environmental degradation and affect the implementation of the planned community facilities (**Appendices III-1 and 2**).

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

11.1 The application is for proposed temporary shop and services with ancillary office for a period of 5 years at a site falling mainly within "G/IC" zone (about 75.2%) with minor portion within "V" zone (24.8%) on the OZP (**Plan A-1**). 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, while that for the "V" zone is primarily for development of Small Houses by indigenous villagers. Whilst the applied development is not in line with planning intentions of the "V" and "G/IC" zones, the implementation programme for this part of NDA is still being

formulated, and PM/W of CEDD has no objection to the temporary use for a period of 5 years at the Site. DLO/YL advises that there is no Small House application approved/under processing for the Site. In this regard, approval of the application on a temporary basis of 5 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for the implementation of government projects.

- 11.2 The Site is located at the fringe of the “V” zone. The proposed temporary use of shop and services for the selling of car products is of small scale (with two structures of 4m high and a rain shelter, and with total floor area of 326m<sup>2</sup>) and the transportation of goods will only use light goods vehicles. As such, the applied use is considered not incompatible with the surrounding area. Significant environmental impacts to the surrounding areas are not anticipated.
- 11.3 There is no adverse comment from concerned Government departments including DEP. Furthermore, relevant approval conditions have been recommended in paragraph 12.2 to address the possible environmental nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on the Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has rejected two similar applications No. A/HSK/193 and 255 for shop and services (showroom) with ancillary office and temporary wholesale trade and shop and services uses respectively at a much larger site (1,888m<sup>2</sup>) falling entirely within the same “G/IC” zone on the OZP in 2019 and 2020. For application No. A/HSK/193, the applied use, which involved storage and displayed of items, was considered not compatible with the surrounding environment. For the subsequent application No. A/HSK/255 at the same site, the applied use, which involved storage, display and retail of items, was also considered not compatible with the surrounding environment, and the open area constituting to 87% of the site area (about 1,635m<sup>2</sup>) intended only for circulation, manoeuvring and parking purposes was considered not commensurate in scale with the proposed development. For the current application, although the Site falls partly within the same “G/IC” zone, the applied use is of relatively small scale similar to the approved development under application No. A/HSK/233, and both of them could provide related retail service to meet any such demand in the area.
- 11.5 There are two public comments received on the application during the statutory publication period as summarized in paragraph 10 above. The planning considerations and assessments in the above paragraphs 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 **12.3.2026**. 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 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle washing, vehicle repair, dismantling, paint spraying or other workshop activity is allowed on the Site at any time during the planning approval period;
- (d) no goods vehicles exceeding 5.5 tonnes, including container tractor/trailers as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **12.9.2021**;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **12.12.2021**;
- (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 the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **12.9.2021**;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **12.12.2021**;
- (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; and

- (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.

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 use is not in line with the planning intentions of the "G/IC" and "V" zones which are 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, and for development of Small Houses by indigenous villagers respectively. No strong planning justification has been given in the submission for a departure from such planning intentions, 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 reason(s) for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form and plans received on 19.1.2021
<b>Appendix Ia</b>	FI dated 2.2.2021
<b>Appendix II</b>	Similar applications Within the Same "G/IC" and "V" Zones on the approved Hung Shui Kiu and Ha Tsuen OZP
<b>Appendices III-1 and 2</b>	Public comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos