

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

**APPLICATION NO. A/KTN/77**

<b><u>Applicant</u></b>	: R-riches Property Consultations Limited
<b><u>Site</u></b>	: Lot 666 RP in D.D. 96, Kwu Tung, New Territories
<b><u>Site Area</u></b>	: About 558m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kwu Tung North Outline Zoning Plan No. S/KTN/2
<b><u>Zoning</u></b>	: “Other Specified Uses” annotated (about 73.3% of the Site) “Amenity Area” (“OU(A)”) and an area shown as ‘Road’ (about 26.7% of the Site)
<b><u>Application</u></b>	: Proposed Temporary Shop and Services with Ancillary Staff Canteen for a Period of 3 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 staff canteen for a period 3 years. The Site falls partly within an area zoned “OU(A)” and partly within an area shown as ‘Road’ on the Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 years in area zoned “OU(A)” or ‘Road’ requires permission of the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently hard paved with a few containers on it.
- 1.2 The Site is the subject of a previous application No. A/KTN/47 for the same use and submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 20.7.2018. However, the application was revoked on 20.12.2020 due to non-compliance with approval conditions on implementation of drainage proposal, fire services installation (FSI) proposal and landscape proposal.

- 1.3 According to the applicant's submission, the proposed development comprises 3 single-storey (about 3m high) structures with a total floor area of about 126m<sup>2</sup> for shop and services (real estate agency) (54m<sup>2</sup>), site office (36m<sup>2</sup>) and staff canteen serving the staff of the real estate agency (not open to public) (36m<sup>2</sup>). Two private car parking spaces for the use of staff and visitor will be provided within the Site. Only private car is allowed to enter/exit the Site. The Site is accessible from Castle Peak Road – Chau Tau via a local track. An ingress/egress is at the south-eastern edge of the Site (**Drawing A-1 and Plan A-2**). The applicant has submitted drainage, landscape and Fire Service Installations (FSI) proposals. The operation hours of the proposed development are from 9 a.m. to 8 p.m. daily. The estimated maximum number of visitors per day is about 15. The estimated number of staff working on site is 6. The layout plan, internal layout plan and landscape proposal submitted by the applicant are at **Drawings A-1, A-2 and A-3** respectively.
- 1.4 Compared with the previous application No. A/KTN/47, the current application is the same as the last application in terms of site area, site boundary and proposed use while there is minor change in the disposition of the 3 temporary structures and car parking area.
- 1.5 In support of the application, the applicant has submitted the following documents:
- |  |                        |
|--|------------------------|
| (a) Application Form with plans received on 27.4.2021    | ( <b>Appendix I</b> )  |
| (b) Further Information (FI) dated 7.6.2021 <sup>#</sup> | ( <b>Appendix Ia</b> ) |
| (c) FI dated 16.6.2021 <sup>#</sup>                      | ( <b>Appendix Ib</b> ) |
- <sup>#</sup>exempted from publication

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

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia and Ib**, and are summarized as follows:

- (a) The proposed development intends to serve the surrounding local residents.
- (b) The proposed development is on a temporary basis which will not jeopardize the long term planning intention of the "OU(A)" zone and 'Road' use. Previous application No. A/KTN/47 for the same use was approved at the Site by the Board, approval of the application would not set undesirable precedent.
- (c) The applicant has complied with 3 approval conditions (submission of drainage, landscape and FSI proposals) under previously approved application. The planning permission was revoked due to non-compliance with the approval conditions on implementation of these proposals. The applicant could not commence work for implementation of the approved proposals because he has not obtained Lands Department (LandsD)'s approval on his short term waiver (STW) application for the proposed development. Nevertheless, the applicant has shown effort to comply with

approval conditions by providing drainage, landscape and FSI proposals to support the current application.

- (d) Advance booking is required for visitors to access the Site which could help to prevent excessive number of visitors. Sufficient maneuvering space for vehicle is provided within the Site to ensure no queuing, turning back outside the Site and onto public road. Therefore, the development will not create significant adverse traffic impact to the surrounding areas.
- (e) The applicant will strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Use and Open Storage Sites' (COP) by the Environmental Protection Department (EPD) to minimize adverse environmental impacts and nuisance to the surrounding areas.
- (f) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures will be provided should the approval be granted by the Board.

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

The applicant is not the “current land owner” of the Site 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 Sheung Shui District Rural Committee (SSDRC) by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The storage use (including deposit of containers) on the Site would be subject to planning enforcement action.

### **5. Previous Application**

- 5.1 The Site is the subject of a previous application No. A/KTN/47 for the same use submitted by the same applicant of the subject application. Details of the application is summarized at **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 The application No. A/KTN/47 was approved with conditions by the Committee on 20.7.2018 for a period of three years mainly on the considerations that the application on a temporary basis would not jeopardize the long-term development of the Site; the proposed use was not incompatible with the surrounding land uses; the relevant departments had no adverse comments on the proposal and the proposed use would not have significant environmental, traffic and drainage impacts on the surrounding

areas. However, the application was revoked on 20.12.2020 due to non-compliance with approval conditions on implementation of drainage proposal, FSI proposal and landscape proposal, though the approval conditions on submission of these proposals had been complied with.

## **6. Similar Application**

There is no similar application within the same “OU(A)” zone and ‘Road’ area.

## **7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photo on Plan A-4)**

7.1 The Site is:

- (a) currently hard paved with a few containers on it; and
- (b) accessible from Castle Road – Chau Tau via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to the north is mainly a lorry park;
- (b) to the west and northwest are mainly an office, eating place, car repairing workshop, plant nursery and some domestic structures;
- (c) to the east and northeast mainly domestic structures; and
- (d) to the south are cycle track and Castle Peak Road – Chau Tau.

## **8. Planning Intention**

8.1 The planning intention of the “OU(A)” zone is primarily for the provision of landscaping and planting to enhance the environment.

8.2 The area shown as ‘Road’ is intended for road use.

## **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, LandsD (DLO/YL, LandsD):

- (a) The Site is 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; and
- (b) should the planning application be approved, the lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularize any irregularity on the 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. Applications for any of the above will be considered by the LandsD acting in the capacity of the 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 rent or fee, as may be imposed by the LandsD.

### **Future Development**

#### 9.1.2 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

- (a) the Site falls within the Remaining Phase of Kwu Tung North New Development Area (KTN NDA) project and study area of consultancy agreement No. CE 20/2019 (HY) “Improvement of Tai Tau Leng Roundabout and Fanling Highway (Kwu Tung Section) – Design and Construction”; and
- (b) according to the latest implementation programme of the project, CEDD aims to commence the construction works for the Remaining Phase of KTN NDA in 2024. As such, the applicant has to release the area for the project on or before end 2023.

### **Traffic**

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

- (a) he has no comment on the application based on the applicant’s FI (**Appendix Ib**); and
- (b) the proposed vehicular access to the Site is via Government land and village track connecting with Castle Peak Road – Chau Tau. The

above Government land and village track are not under Transport Department (TD)'s management. The applicant should check the land status of the access with the lands authority, and clarify its management and maintenance responsibilities with the relevant lands and maintenance authorities accordingly.

### **Environment**

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

- (a) the applicant is advised to follow the relevant mitigation measures and requirements in the latest COP issued by DEP in order to minimize any potential environmental nuisance;
- (b) the Site is located in an unsewered area. Noting that toilet with septic tank is proposed, in case soakaway system is provided for sewerage disposal, the design and construction of it should also follow the requirements of the Practice Note for Professional Person (ProPECC) PN5/93 "Drainage Plans subject to comment by the DEP". As for the wastewater collected from kitchens and washing areas, including that from basins, sinks and floor drains, they should be conveyed to grease traps for pre-treatment according to ProPECC PN 5/93. In case there is any effluent discharging from the Site, the applicant is reminded of his obligation to comply with the Water Pollution Control Ordinance by applying for a discharge licence from their Regional Office (North) before discharging;
- (c) there was one environmental complaint received in 2020 concerning noise nuisance from the Site, but was found unsubstantiated; and
- (d) his advisory comments are at **Appendix IV**.

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

the Site is in an area where no public sewerage connection is available.

### **Landscape**

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

- (a) he has no objection to the application from the landscape planning perspective;
- (b) according to the aerial photo of 2020, the Site is situated in an area of rural landscape character predominantly comprising of temporary

structures, large vehicle parks and woodland patches. The proposed development, with one-storey temporary structures and car parking spaces, is not incompatible with the landscape character of the surrounding environment;

- (c) according to the site photos in May 2021, the Site is hard paved with several temporary structures. No existing tree is observed within the site. Significant adverse landscape impact arising from the development is not anticipated; and
- (d) in view that the Site is abutting a cycle track and Castle Peak Road – Chau Tau, should the application be approved, approval conditions requiring the submission and implementation of landscape proposal is recommended. His advisory comments are at **Appendix IV**.

### **Drainage**

#### 9.1.7 Comments of CE/MN, DSD:

- (a) he has no objection to the application from the public drainage viewpoint; and
- (b) should the application be approved, a condition should be included to request the applicant to submit the implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area. General requirements in the drainage proposal are at **Appendix IV**

### **Fire Safety**

#### 9.1.8 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, FSI is anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSI to his department for approval; and
- (c) his advisory comments are at **Appendix IV**.

### **Food and Environmental Hygiene**

#### 9.1.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) a staff canteen that exclusively use by the staff members of that working

place does not require a food business licence from his department; and

- (b) the operation of the canteen must not cause any environmental nuisance to the surroundings. The refuse generated by the proposed canteen are regards as trade refuse. The management or owner of the Site is responsible for its removal and disposal at their expenses. The operation of any business should not cause any obstruction or environmental nuisance in the vicinity. Other advisory comments are at **Appendix IV**.

### **Building Matters**

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

- (a) there is no record of submission of proposed buildings/structures to the Building Authority for approval; and
- (b) his advisory comments under the Building Ordinance for any new proposed buildings are at **Appendix IV**.

### **Agricultural and Nature Conservation**

9.1.11 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

based on the information provided, the Site is paved. He has no comment on the application from nature conservation perspective.

### **Town Gas Safety**

9.1.12 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) there is a high pressure town gas transmission pipeline (running along Fanling Highway) in the vicinity of the Site;
- (b) the applicant shall liaise with the Hong Kong and China gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
- (c) the applicant is required to observe the EMSD's requirements on the "Avoidance of Damage to Gas Pipes 2<sup>nd</sup> Edition" for reference.



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

9.1.13 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals from 24.5.2021 to 7.6.2021; and
- (b) The North District Council (NDC) member of the subject Constituency supports the application. The Chairman of SSDRC, the Resident Representative (RR) of Kwu Tung (North) and RR of Kwu Tung (South) have no comment.

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

- (a) Chief Estate Surveyor/New Development Area, LandsD (CES/NDA, LandsD);
- (b) Chief Engineer/Construction (CE/C), WSD;
- (c) Head of the Geotechnical Engineering Office, CEDD (H(Geo), CEDD);
- (d) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (e) Commissioner of Police (C of P).

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

On 4.5.2021, the application was published for public inspection. During the three-week statutory publication period, a total of 4 public comments (**Appendices III-1 to III-4**) submitted by individuals were received. Three of which (**Appendices III-1 to III-3**) object to the application mainly on the grounds that the proposed development will cause adverse impacts to the nearby residents on fire safety, living quality, traffic, drainage, environmental, visual and pedestrian safety aspects; the proposed shop and service will not serve the needs of the locals; there is no existing vehicular access to the Site; no assessments have been submitted to demonstrate sufficient infrastructure to support the proposed development; the applicant failed to comply with the approval conditions for last application within the time limit; and there is concern on hygiene as the proposed development involves a canteen. The remaining one (**Appendix III-4**) indicates no comment.

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

11.1 The application is for proposed temporary shop and services with ancillary staff canteen for a period of 3 years to provide real estate agency service. The Site falls partly within an area zoned "OU(A)" and partly within an area shown as 'Road' on the Approved KTN OZP No. S/KTN/2 (**Plan A-1**). The proposed use is not in line with the planning intention of "OU(A)" zone and 'Road', which are mainly for amenity or road use under the KTN NDA development. Yet, the Site falls within

the Remaining Phase of KTN NDA project. PM/N, CEDD advised that the construction works for the Remaining Phase is scheduled for commencement in 2024. In view of the above, approval of the application on a temporary basis for 3 years may not jeopardize the long-term development of the Site. 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 proposed development with site area of about 558m<sup>2</sup> involving 3 single-storey (about 3m high) structures for shop and services use is considered not incompatible with the surrounding land uses, which are mainly vehicle parks, car repairing workshop, plant nursery and domestic structures. CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective. Relevant government departments including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application on traffic, environment, drainage and fire safety aspects. Approval conditions as suggested by concerned departments are included in paragraph 12.2.
- 11.3 The Site is subject of a previous approved application No. A/KTN/47 for the same use and submitted by the same applicant as stated in paragraph 5 above. Approval conditions on the submission of FSI, landscape and drainage proposals had been complied with before revocation of the planning permission on 20.12.2020 due to non-compliance with the corresponding approval conditions on implementation of these proposals. The applicant states that he could not commence work for implementation because he has not obtained LandsD's approval on his STW application for the proposed development. In the current application, the applicant has submitted drainage, landscape and FSI proposals, and CE/MN of DSD, CTP/UD&L, PlanD and D of FS have no objection to the application. The current application is the same as the previous application in terms of site area, site boundary, proposed use and scale with similar layout. There has been no major change in the planning circumstance since the last approval. Hence, it is considered that sympathetic consideration could be given to the current application. Should the Committee decide to approve the current application, shorter compliance periods for the approval conditions are recommended to closely monitor the progress of compliance of approval conditions. Moreover, the applicant would be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.4 There are 4 local views conveyed by DO(N) and 4 public comments as stated in paragraph 9.1.13 and 10, of which 3 object to the application. The planning considerations and assessments above are relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraphs 9.1.13 and 10, the Planning Department considers that the temporary shop and services with ancillary staff canteen could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 25.6.2024. The following approval conditions with shorter compliance periods 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) only private car as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.9.2021;
- (e) in relation to (d) above, the implementation of the 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 25.12.2021;
- (f) the submission of drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 25.9.2021;
- (g) in relation to (g) above, the implementation of the 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 25.12.2021;
- (h) the submission of a landscape proposal within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 25.9.2021;
- (i) in relation to (h) above, the implementation of the landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 25.12.2021;

- (j) if any of the above planning conditions (a), (b) or (c) 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 (d), (e), (f), (g), (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 attached at **Appendix IV**.

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

The proposed development is not in line with the planning intentions of the "OU(A)" zone and area reserved for 'Road' which are primarily for the provision of landscaping and planting to enhance the environment and for road development respectively. No strong planning justification has been given in the submission for a departure from the 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 invited to advise what reason(s) for rejection should be given to the applicant.

### **14. Attachments**

<b>Appendix I</b>	Application Form with plans received on 27.4.2021
<b>Appendix Ia</b>	FI dated on 7.6.2021
<b>Appendix Ib</b>	FI dated on 16.6.2021
<b>Appendix II</b>	Previous Application
<b>Appendices III-1 to III-4</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Internal Layout Plan

**Drawing A-3**

**Plan A-1**

**Plan A-2**

**Plan A-3**

**Plan A-4**

Landscape Proposal

Location Plan

Site Plan

Aerial Photo

Site Photos

**PLANNING DEPARTMENT**

**JUNE 2021**