

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/495

<u>Applicant</u>	: Ms. CHAN Kwai Yung represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 3335 S.BF in D.D. 91, Lin Tong Mei, Kwu Tung South, New Territories
<u>Site Area</u>	: About 160m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Kwu Tung South Outline Zoning Plan No. S/NE-KTS/17
<u>Zoning</u>	: “Village Type Development Area” (“V”)
<u>Application</u>	: Proposed Temporary Shop and Services 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 for a period 5 years. The Site falls within an area zoned “V” on the Draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/17 (**Plan A-1**). According to the Notes of the OZP, the proposed use is a Column 2 use within the “V” zone which requires permission from the Town Planning Board (the Board). The Site is currently vacant with some trees and potted plants.
- 1.2 The applicant applies to use the Site for shop and services for sale of vehicle products including mud flaps, car washing liquid and engine oil. The proposed development involves one 2-storey (7m high) structure, with a total floor area of about 174m². The ground floor will be used for shop and services and parking space while the first floor will be the ancillary office and storage of goods. Toilet and Septic tank will be provided within the Site. The layout plan is at **Drawing A-1**.
- 1.3 The Site is accessible from Fan Kam Road via a local track. An ingress/egress is proposed at the north-eastern tip of the Site (**Drawing A-1 and Plan A-2**). One private car parking space will be provided within the Site. The operation hours are

from 9 a.m. to 7 p.m. daily. The estimated maximum number of visitors per day is about 15. The estimated number of staff is 5. No dismantling, maintenance, repairing, cleansing, paint spraying, car washing or other workshop activities are allowed at the Site. Only private car is allowed to enter/exit the Site.

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

- (a) Application Form with Plans received on 17.3.2021 (Appendix I)
- (b) Further Information (FI) of 30.4.2021[#] (Appendix Ia)
[#]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 and Ia** and are summarized as follows:

- (a) The proposed development intends to serve the nearby local resident.
- (b) The proposed temporary development will not jeopardize the long term planning intention of the “V” zone.
- (c) Private car is deployed for transportation of goods to support the operation of the proposed development. Light, medium or heavy goods vehicles, including container tractors/trailers are prohibited to be parked/stored on or enter/exit the Site.
- (d) One private car parking space is proposed for staff use only. Sufficient maneuvering space is provided within the Site to ensure no queuing, turning back outside the Site and onto public road. The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.
- (e) The applicant will strictly follow the Professional Persons Environmental Consultative Committee Practice Notes for sewage treatment, and ‘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.

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 Site is subject to an active planning enforcement action under the Town Planning Ordinance against unauthorized development (UD) involving storage use (including deposit of containers). On 5.9.2019, Enforcement Notice (EN) was issued to the concerned notice recipients requiring discontinuation of the UD (**Plan A-2**). Since the EN was not complied with, the defendants were prosecuted, and upon conviction, fined on 27.1.2021. As revealed by site inspection on 19.3.2021, the Site was largely vacant.

5. **Previous Application**

There is no previous application for the Site.

6. **Similar Application**

There is no similar application within the same “V” zone.

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 vacant with some trees and potted plants; and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding areas are predominantly rural in nature with the following characteristics:

- (a) to the north and northeast are mainly open storages of construction materials, storage and a proposed temporary hobby farm approved under application No. A/NE-KTS/492;
- (b) to the southeast and south are fallow agricultural land and plant nursery; and
- (c) to the west and northwest are village settlement in the same “V” zone.

8. **Planning Intention**

The planning intention of the “V” zone is to designate both existing recognised 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. 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/North, Lands Department (DLO/N, LandsD):

- (a) the application lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The lot is surrounded by other private lots. The applicant should make his own arrangement for acquiring access to the Site. There is no guarantee that any adjoining Government land will be allowed for vehicular access to the Site for the proposed use;
- (b) the Site is also nearby an application site of Water Supplies Department (WSD)'s proposed Simplified Temporary Land Allocation (STLA) for water supply works to lay water mains and install valve chamber;
- (c) the Site falls within the village 'Environs' ('VE') of Lin Tong Mei (**Plan A-2**). No Small House application has been received for the Site and his office has no comment on the application from Small House Policy perspective; and
- (d) if the planning application is approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area and structures concerned. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdate to the first date of occupation (if any) and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

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

- (a) he has no in-principle objection to the application from traffic engineering viewpoint; and
- (b) the vehicular access between the Site and Fan Kam Road is not managed by his department. The applicant shall seek agreement/comment from the responsible party for the management and maintenance measures to be implemented for the vehicular access.

Environment

9.1.3 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; and
- (b) there is no environmental complaint against the Site received by DEP in the past 3 years.

9.1.4. 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

9.1.5. 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) referring to the aerial photo in 2020, the Site is situated in an area of rural landscape character comprising of village houses, scattered tree groups, carparks and open storages in the vicinity. The proposed use is not incompatible with the surrounding environment;
- (c) according to the site photos dated 18.3.2021, majority of the Site is vacant and hard paved, while some small fruit trees and potted plants are located at northern to eastern side and western side of the Site at or near the site boundary. The Site is not located in landscape sensitive zoning and significant adverse impact on landscape resources within the Site is not anticipated; and
- (d) his advisory comments are at **Appendix III**.

Drainage

9.1.6. Comments of CE/MN, DSD:

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) the Site is in an area where no DSD stormwater drain is available. Should the application be approved, conditions should be included to request submit, implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board; and
- (c) his advisory comments are at **Appendix III**.

Building Matters

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

- (a) formal submission under the Buildings Ordinance (BO) is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at the building plan submission stage; and
- (b) his advisory comments are at **Appendix III**.

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 fire service installations (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 III**.

District Officer's Comments

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

- (a) he has consulted the locals from 7.4.2021 to 21.4.2021; and

- (b) the North District Council (NDC) member of the subject Constituency and Indigenous Inhabitant Representative (IIR) of Lin Tong Mei support the proposal on ground of efficient use of vacant land. The Chairman of SSDRC and the Resident Representative (RR) of Lin Tong Mei have no comment.

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

- (a) Chief Engineer/Construction (CE/C), WSD;
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 26.3.2021, the application was published for public inspection. During the three-week statutory publication period, one comment from an individual was received (**Appendix II**) indicating no comment.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 5 years. The Site falls within an area zoned “V” on the Draft Kwu Tung South OZP No. S/NE-KTS/17 (**Plan A-1**). According to the submission, the proposed shop and services is to serve the nearby local residents. The planning intention of the “V” zone is to designate both existing recognised 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. The proposed use is not entirely in line with the planning intention of “V” zone. Nevertheless, DLO/N, LandsD advices that no Small House application has been received for the Site. It is considered that approval of the application on a temporary basis of 5 years would not jeopardize the long-term planning intention of the “V” zone or provision of land for Small House development.
- 11.2 The proposed use involving one 2-storey structure with a total floor area of about 174m² is considered not incompatible with the surrounding land uses, which are predominately rural in nature mainly with village settlement, open storages, a proposed temporary hobby farm and fallow agricultural land in the vicinity (**Plan A-2**).
- 11.3 Relevant Government departments consulted including C for T, DEP, CE/MN, DSD,

D of FS and CTP/UD&L, PlanD have no adverse comment on or no objection to the application. There is no environmental complaint against the Site in the past 3 years. To mitigate any potential environmental impacts, approval conditions restricting the operating hours of the proposed use and type of vehicles entering the Site are recommended in paragraph 12.2. Besides, the applicant will be advised to follow the latest COP issued by DEP. The approval conditions requested by CE/MN, DSD and D of FS are suggested in paragraph 12.2.

- 11.4 The Site does not involve any previous application. There is no similar application in the same “V” zone.
- 11.5 There are local views conveyed by DO(N) and one public comment as stated in paragraphs 9.1.9 and 10, providing supportive view or indicating no comment.

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 comment mentioned in paragraphs 9.1.9 and 10, the Planning Department has no objection to the proposed shop and services for a period of 5 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 5 years until 14.5.2026. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00 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) the submission of 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 14.11.2021;
- (d) in relation to (c) 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 14.2.2022;
- (e) the submission of 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 14.11.2021;

- (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 14.2.2022;
- (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) if any of the above planning conditions (a), (b), 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
- (i) if any of the above planning conditions (c), (d), (e) or (f) 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 III**.

- 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 intention of the "V" zone which is to designate both existing recognised 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. There is no strong planning justification in the submission for 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with Plans received on 17.3.2021
Appendix Ia	FI of 30.4.2021
Appendix II	Public Comment
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plans A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2021**