

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYT/414

- Applicant** : Star Corporate Management Limited represented by R-riches Property Consultants Limited
- Site** : Lot 3055 (Part) in D.D. 124, Wo Ping San Tsuen, Tuen Mun, New Territories
- Site Area** : About 804 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYT/11
(currently in force)
- Approved Lam Tei and Yick Yuen OZP No. S/TM-LTYT/10
(at the time of submission)
- Zoning** : “Residential (Group B) 2” (“R(B)2”)
[subject to a maximum plot ratio of 1.26, a maximum site coverage of 40% and a maximum building height of 21m and 6 storeys over single-storey car park]
- Application** : Proposed Temporary Shop and Services 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 for a period of 3 years (**Plan A-1**). According to the Notes for the “R(B)2” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for parking of heavy vehicles and storage use without valid planning permission (**Plans A-2 and 4**).
- 1.2 The Site is accessible from Castle Peak Road – Hung Shui Kiu via a local road (**Plans A-2 and A-3**). According to the applicant, the proposal is for vehicle showroom to serve the nearby residents. The proposed development involves a two-storey temporary structure (13m high) with a total floor area of 1,272m² for vehicle showroom (for a maximum of 20 car display) and

ancillary office. Four private car parking spaces will be provided within the structure for visitors on appointment basis. The operation hours are from 9:00 a.m. to 8:00 p.m. daily, including public holidays. According to the applicant, no vehicle will be allowed to queue back to or reverse onto/from the Site to the public road. No light, medium or heavy goods vehicles, including container tractor/trailer will be allowed to enter/exit the Site at any time during the planning approval period. The location plan, layout plans and swept path analysis plan submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 9.7.2021 **(Appendix I)**
 - (b) Further Information (FI) received on 6.8.2021 **(Appendix Ia)** responding to departmental comments
(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 at **Appendices I and Ia**. They can be summarised as follows:

- (a) The Site falls within an area zoned “R(B)2” on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Board. Since the application is on a temporary basis, it will not frustrate the long-term planning intention of the “R(B)2” zone.
- (b) A maximum of 20 vehicles will be displayed at the Site. Vehicles to be displayed at the Site are unlicensed vehicles. Visitor is required to make appointment in advance to access the Site and use the parking spaces, this is to regulate and prevent excessive number of visitors of the Site.
- (c) Staff is deployed at the ingress/egress of the Site to direct vehicles entering/exiting the Site. The unlicensed vehicles are driven to the Site by staff with trade licenses, towing of vehicle to the Site is not required. Sufficient space is provided for vehicle to smoothly manoeuvre within the Site.
- (d) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (“COP”) by the Environmental Protection Department to minimise all possible environmental impacts on the nearby sensitive receivers. No dangerous goods will be stored at the Site at any time during the planning approval period.
- (e) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. The applicant will provide adequate mitigation measures to mitigate any adverse impacts 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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Tuen Mun Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to planning enforcement action against unauthorised development (UD) involving parking of vehicles. Enforcement Notice (EN) was issued to the concerned parties on 1.6.2021 requiring discontinuance of the UD. If the EN is not complied with, prosecution action may be taken.

5. Previous Application

There is no previous application covering the Site¹.

6. Similar Application

There is no similar planning application for shop and services use within the subject “R(B)2” zone.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

7.1 The Site is:

- (a) currently used for parking of heavy vehicles and storage use without valid planning permission; and
- (b) accessible from Castle Peak Road – Hung Shui Kiu via a local access (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is an area zoned “Other Specified Uses” annotated “Petrol Filling Station” (“OU(PFS)”) which comprising two petrol filling stations and a piece of land used for open storage of construction material, which is a suspected UD. To the further north is Castle Peak Road – Hung Shui Kiu;

¹ The Site is part of the subject sites of three withdrawn applications (No. A/TM-LTTY/403, 406 and 412) covering a larger site area for proposed temporary shop and services intended for sale and display of furniture.

- (b) to the immediate west and south is parking and storage of vehicles (including private cars, container vehicles, trailers) and construction machinery, which is a UD subject to planning enforcement action. To the further west is Bauhinia Garden (紫翠花園), an existing residential development; and
- (c) to the east, northeast and further south are residential dwellings intermixed with office, warehouses, structure for storage and vehicle services and shop, which are suspected UDs.

8. Planning Intention

The planning intention of the “R(B)2” zone is primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood 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 and the public comments are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site falls within Lot No. 3055 (part) in DD. 124 (“the Lot”). The Lot is 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) A container for storage purposes was found on Site during site inspection. Moreover, the Site is mainly for vehicles parking. According to Plan No. P04 of the Application Form at **Appendix I (Drawing A-2)**, one structure is proposed.
- (c) The Site is accessible from Castle Peak Road via some private lots. His office does not carry out maintenance works for the access nor guarantee that right-of-way will be given to the Site.
- (d) If planning permission is given by the Board, the lot owner is required to submit a formal application to his office for a Short Term Waiver to permit erection of structures on the Lot. However, there is no guarantee that the application will be approved and he reserves his right to take any action

as may be appropriate. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee, deposit and administration fee etc.

- (e) Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extension/alterations of structures within the Lot irrespective of whether planning permission will be given or not. Enforcement action will also be taken should any structures are found erected without any prior approval given by this office or any unauthorized occupation of government land.

Traffic

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

- (a) Management measures proposed by the applicant at **Appendix Ia** should be implemented to avoid affecting traffic at Castle Peak Road.
- (b) Swept path of private cars was provided (**Drawing A-4**) and thus only private cars (both licensed vehicles and unlicensed functional vehicles) shall access the Site.

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

- (a) The proposed access from the Site to Castle Peak Road – Hung Shui Kiu is not and will not be maintained by HyD.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) In view that the proposed use will not involve heavy vehicles and dusty activities, he has no objection to the planning application.
- (b) The applicant is advised that if septic tank and soakaway system is used in case of unavailability of public sewer, its design and construction should follow the requirements of the Practice Note for Professional Persons (ProPECC PN)

5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorised Person (AP).

- (c) Should the application be approved, the applicant shall be advised to follow the relevant mitigation measures and requirements in the latest “COP”.

Landscape

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

- (a) With reference to the site photo dated 20.1.2021 and the aerial photo of 2020, the Site is mainly occupied by temporary structures and without any existing vegetation. The Site is situated in an area of urban fringe landscape character with high rise residential buildings to the further west and other temporary structures to the northeast and south of the Site. The proposed use is not incompatible with the surrounding landscape character.
- (b) The applicant should note his detailed comments at **Appendix III**.

Drainage

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

- (a) He has no in-principle objection to the captioned application from public drainage viewpoint.
- (b) The Site is located at an area where public drainage facility is available for connection. Should the application be approved, a condition should be stipulated requiring the applicant to submit a drainage proposal for the development and to implement and maintain the drainage facilities proposed in the drainage proposal to his satisfaction.
- (c) The applicant should note his detailed comments at **Appendix III**.

Fire Safety

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

He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction. The applicant should note his detailed comments at **Appendix III**.

Water Supplies

- 9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

He has no objection to the application. The applicant should note his detailed comments at **Appendix III**.

Building Matters

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

There is no record of approval by the Building Authority (BA) for the existing structures at the Site. The applicant should note his detailed comments at **Appendix III**.

District Officer's Comments

- 9.1.10 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the locals concerned and understand that they will provide their comments (if any) to the Board directly.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (b) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 16.7.2021, the application was published for public inspection. During the statutory public inspection period, six public comments (**Appendix II-1 to II-6**) were received from a member of Tuen Mun District Council (TMDC) and five individuals. The member of TMDC objected to the application on the grounds that the proposed use would have adverse impact on the accessibility to Wo Ping San Tsuen and suspected that it would be eventually developed into a vehicle park. The remaining five objected to the application mainly on the grounds that the proposed use will cause adverse traffic, environmental and fire safety impacts in the vicinity; the proposed 13m-high structure is incompatible with the surrounding areas, suspected that it would be developed into a warehouse. An individual also opined that the Site should be used for public housing development.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “R(B)2” on the OZP, which is intended primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Although the proposed use is not entirely in line with the planning intention of the “R(B)2” zone, it could serve any such need for shop and services in the area. Moreover, there is no known development programme at the Site and its adjoining undeveloped area. Approval of the application on a temporary basis for 3 years would not jeopardise the long-term planning intention of the “R(B)2” zone.
- 11.2 The Site is located at an area predominantly occupied by residential dwellings intermixed with shop and services and petrol filling stations (**Plans A-2 and A-3**). In view of the scale and nature of the development, the proposed use is considered not incompatible with the surrounding land uses.
- 11.3 Relevant government departments, including C for T, DEP, CE/MN, DSD, CTP/UD&L, PlanD and D of FS have no objection to or no adverse comments on the application. The proposed use will unlikely create significant adverse traffic, environmental, drainage, landscape and fire safety impacts to the surrounding areas. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the “COP” in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 There were six public comments received objecting to the application during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in the paragraphs 11.1 to 11.3 are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, and having taken into account the public comments summarised in paragraph 10, 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 3 years until **27.8.2024**. 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) only private cars, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the site, as proposed by the applicant, 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 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 **27.2.2022**;
- (e) in relation to (d) 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 **27.5.2022**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 **27.2.2022**;
- (h) in relation to (g) 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 **27.5.2022**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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 applied use is not in line with the planning intention of "R(B)2" zone which is primarily for sub-urban medium-density residential developments in rural areas. No strong planning justification has been given 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 received on 9.7.2021
Appendix Ia	FI received on 6.8.2021
Appendices II-1 to II-6	Public Comments
Appendix III	Advisory Clauses
Drawing A-1	Location Plan
Drawings A-2 and A-3	Layout Plans
Drawing A-4	Swept Path Analysis Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2021**