

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/1042

- Applicant** : Promise Luck Limited represented by Goldrich Planners and Surveyors Limited
- Site** : Lots 694 RP and 695 RP in D.D. 106 and Adjoining Government Land (GL), Yuen Long
- Site Area** : About 732 m² (including GL of about 51m² (7%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan No. S/YL-KTS/15
- Zoning** : Residential (Group D) (“R(D)”)
[Restricted to maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Shop and Services (Retail Shop for Hardware Groceries and Construction Materials) with Ancillary Facilities for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (retail shop for hardware groceries and construction materials) with ancillary facilities for a period of five years at the application site (the Site) zoned “R(D)” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “R(D)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently hard paved and occupied by open storage of construction materials and storage yard with shelter without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Kam Shui Road via a local access (**Plans A-2 and A-3**). According to the applicant, the proposed use involves three one to two-storey structures ranging from 5m to 9m in height with a total floor area of about 476m² for temporary shop and services, reception and ancillary office uses. A total of four parking spaces (three for private cars and one for light goods vehicle) and no loading/unloading spaces will be provided within the Site. The operation hours will be between 8:30 a.m. and 6:30 p.m. daily including public holidays. The Site will be used for retail purpose only and no workshop activity will be carried out on Site.

Sufficient space will be provided for vehicles to manoeuvre within and entering/leaving the Site. No public announcement systems, whistle blowing or portable loudspeaker will be allowed at the Site. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 15.11.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 7.1.2025* (**Appendix Ia**)
 - (c) FI received on 10.2.2025* (**Appendix Ib**)

**accepted and exempted from publication and recounting requirements*

- 1.4 On 10.1.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The proposed use could meet the demand for hardware groceries and construction materials from the local residents and construction works in the vicinity.
- (b) Sufficient space will be provided for vehicles to manoeuvre within and entering/leaving the Site in order to ensure no queuing and/or turning outside the Site. Also, the trips generated by the proposed use would be insignificant. The applicant will follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (CoP) issued by Environmental Protection Department. No public announcement systems, whistle blowing or portable loudspeaker will be allowed at the Site. The applicant will submit and implement drainage proposals. Hence, adverse traffic, environmental and drainage impacts to the surrounding area arising from the proposed use are not anticipated.

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. 31B) by publishing newspaper notice and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Member's inspection. For the GL portion, the "Owner's Consent / Notification" requirements are not applicable.

4. Background

The Site is currently not subject to any active planning enforcement action.

5. Previous Application

There is no previous planning application covering the Site.

6. Similar Applications

There are two similar applications (No. A/YL-KTS/864 and 954) covering the same site for temporary shop and services with/without vehicle repair workshop within the same “R(D)” zone in the vicinity of the Site in the past five years. Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2021 and 2023 respectively mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention; the proposed use was considered not incompatible with the surrounding land uses; relevant government departments consulted in general had no adverse comment on the application and/or their concerns could be addressed by approval conditions; and policy support was given for application No. A/YL-KTS/954 to facilitate relocation of business operation (involving vehicle repair workshop) displaced by government project. Details of the similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Kam Shui Road via a local track; and
- (b) currently hard paved and occupied by open storage of construction materials and storage yard without valid planning permission.

7.2 The surrounding areas comprise predominantly open storage yards, vehicle repair workshops, scattered residential structures, village settlement of Ng Ka Tsuen, plant nursery, grassland, vacant land and woodland. To the immediate north of the Site is the Kam Tin River.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to/no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses, if any, are provided in **Appendices III and IV** respectively.

9.2 The following government department objects to the application:

Land Administration

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

- (a) objects to the application;
- (b) the Site comprises GL and Old Schedule Agricultural Lots 694RP and 698RP both in D.D. 106 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;
- (c) there are unauthorised structures within the private lots. The lots owner(s) should immediately rectify/apply for regularisation on the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (d) the GL within the Site (about 51m²) has been fenced off/unlawfully occupied on or after 28.3.2017 without any permission. Any occupation of GL without Government's prior approval is an offence under Cap.28. LandsD objects to the application since there is unlawful occupation of GL and regularisation would not be considered according to the prevailing land policy. The lot owner(s) should immediately cease the unlawful occupation of GL as demanded by LandsD. His office reserves the rights to take necessary land control action against the unlawful occupation of GL without further notice; and
- (e) advisory comments are at **Appendix IV**.

10. Public Comment Received During the Statutory Publication Period

On 22.11.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received, including one from the Aviation Club of Hong Kong, China expressing concerns on the building height of the proposed structures from flight safety perspective for the Site is located in close proximity to Shek Kong runways; and one from an individual objecting to the application mainly on the grounds that the proposed use appear to be a brownfield operation, the Site is located at a sensitive location close to a river bank and the accessibility of the retail store is questionable (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (retail shop for hardware groceries and construction materials) with ancillary facilities for a period of five years at the Site zoned "R(D)" (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the "R(D)" zone, the applicant claims that the proposed use could meet the demand for hardware groceries and construction materials from the local residents and construction works in the vicinity. There is also no known development programme involving the Site. Hence,

approval of the application on a temporary basis for a period of five years will not frustrate the long-term planning intention of the “R(D)” zone.

- 11.2 The proposed use is considered not incompatible with the surrounding areas which comprise predominantly open storage yards, vehicles repair workshops, scattered residential structures, village settlement of Ng Ka Tsuen, plant nursery, grassland, vacant land and woodland (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape, Planning Department (PlanD) considers that no significant landscape impact arising from the proposed use is anticipated and has no objection to the application from landscape planning perspective.
- 11.3 Regarding DLO/YL, LandsD’s concern on the unauthorised structures erected within the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. Other relevant government departments consulted including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Director-General of Civil Aviation (DG of CA) have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. It is also recommended to advise the applicant to follow the latest CoP in order to minimise the potential environmental nuisance caused by the proposed use on the surrounding areas.
- 11.4 Two similar applications for temporary shop and services with/without vehicle repair workshop within the same “R(D)” zone in the vicinity of the Site have been approved by the Committee in the past five years as mentioned in paragraph 6 above. Approving the current application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comment on flight safety as mentioned in paragraph 10 above, DG of CA advises that the maximum levels of the proposed structures (i.e. below 10m) are in general compatible with the building heights in the surrounding areas and has no comment on the application. For the other public comment, the departmental comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, PlanD 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 five years until 28.3.2030. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) 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 28.9.2025;

- (b) in relation to (a) 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 28.12.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 28.9.2025;
- (e) in relation to (d) 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 28.12.2025;
- (f) if the above planning condition (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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and is also intended for low-rise, low density residential developments subject to planning permission from the Board. 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

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| Appendix I | Application Form with attachments received on 15.11.2024 |
| Appendix Ia | FI received on 7.1.2025 |
| Appendix Ib | FI received on 10.2.2025 |
| Appendix II | Similar Applications |
| Appendix III | Government Departments' General Comments |
| Appendix IV | Recommended Advisory Clauses |
| Appendix V | Public Comments |
| Drawing A-1 | Site Layout Plan |
| Plan A-1 | Location Plan with Similar Application |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 and 4b | Site Photos |

**PLANNING DEPARTMENT
MARCH 2025**