

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/864

<u>Applicant</u>	: Johan Olstenius Consulting Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 455 S.B (Part) and 475 (Part) in D.D. 106, Kam Sheung Road, Kam Tin, Yuen Long
<u>Site Area</u>	: About 1,430 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: 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. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “R(D)” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, 2 single-storey structures with a total floor area of about 232m² and building heights not exceeding 3m and 4.5m will be erected within the Site for shop and services (sales of car accessories) and toilet uses. 2 private car parking spaces and 1 loading/unloading space for light goods vehicles will be provided within the Site. No vehicles exceeding 5.5 tonnes will be allowed to enter the Site. According to the applicant, the proposed development will sell car accessories such as audio systems, carpets and aroma devices. The operation hours are from 9:00am to 5:00pm daily (including public holidays). The Site is accessible from Kam Sheung Road via a short local track. 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 plans received on 19.10.2020 **(Appendix I)**
- (b) Further information (FI) received on 27.1.2021 **(Appendix Ia)** providing response to departmental comments*
- (c) FI received on 2.3.2021 providing clarification* **(Appendix Ib)**

**exempted from publication requirement*

1.4 On 18.12.2020, the Committee agreed to defer a decision on the application to allow time for the applicant to prepare FI to address departmental comments. After the deferral request, the applicant submitted FI in response to departmental comments. The application is scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form **(Appendix I)**. They can be summarized as follows:

- (a) The proposed development would benefit the nearby residents by catering to their demand for car accessories. No workshop activities and car spraying would occur at the Site.
- (b) The proposed development is a temporary use for 3 years and will not jeopardize the long term planning intention.
- (c) Similar applications for ‘Shop and Services’ use had been granted in “R(D)” zones in other areas in Yuen Long, thus the same consideration should be given to the current application.
- (d) The proposed development is not incompatible with the surrounding environment, and it will not result in significant adverse traffic, environment, drainage and landscape impacts.

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

The applicant is not the “current land owner” but has complied with the requirement 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 notice at the Site and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement case.

5. Previous Application

There is no previous application covering the Site.

6. Similar Application

There is no similar application for shop and services use within the same “R(D)” zone.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4b)

7.1 The Site is:

- (a) paved and vacant; and
- (b) accessible from Kam Sheung Road via a short local access.

7.2 The surrounding areas are rural in character intermixed with residential structures / dwellings, warehouses, open storage / storage yards, fallow agricultural land, and vacant / unused land:

- (a) to its north, east and south are residential structures / dwellings, construction site for a temporary transitional housing development with planning permission, warehouse, storage yard and unused land;
- (b) to its further south in the adjacent “Agriculture” (“AGR”) zone are residential structures / dwellings, fallow agricultural land and open storage yards; and
- (c) to its west across Kam Sheung Road in the “Other Specified Use” annotated “Rural Use” (“OU(RU)”) zone are residential structures / dwellings, open storage / storage yard, warehouse, service depot and vacant land.

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 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities 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 LandsD acting in the capacity as 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 conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) He has no comment on the application from traffic engineering perspective.
 - (b) Approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
 - (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (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):

The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department (EPD) to minimize any potential environmental nuisance.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal. Should the application be approved, approval conditions requiring the applicant to implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) His detailed comments are at **Appendix III**.

Fire Safety

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

- (a) He has no in principle 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.

The location of where the proposed FSI to be installed should be clearly marked on the layout plans.

- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Nature Conservation

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

Considering the Site has been paved, he has no comments on the application from nature conservation perspective.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW, provision of access, temporary or licensed structures are in **Appendix III**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

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

He has not received any comment from the locals upon close of consultation and he has no particular comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager/West, Civil Engineering and Development Department;
- (c) Commissioner of Police; and

- (d) Director of Electrical and Mechanical Services.

10. Public Comments Received During Statutory Publication Period

On 27.10.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments were received from individuals (**Appendices II-1 and II-2**), objecting to the application mainly on the grounds that commercial activities proposed amidst a populated area will affect rural living environment and cause adverse ecological impacts; approval of the application will prolong inappropriate land uses; and there needs to be plans to develop the area and eliminate brownfield uses.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of 3 years at “R(D)” zone. 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. Although the proposed use is not entirely in line with the planning intention of the “R(D)” zone, there is no known programme for long-term development at the Site. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone.
- 11.2 The proposed development is not incompatible with the surrounding area which is intermixed with residential structures / dwellings and vacant/unused land. According to the applicant, the proposed development would cater the demand of the nearby residents for car accessories.
- 11.3 In view of the nature of the proposed use and the location of the Site near Kam Sheung Road, it is unlikely that the proposed use would generate significant adverse traffic and drainage impacts and environmental nuisance to the surrounding area. Relevant departments consulted including C for T, DEP, D of FS and CE/MN of DSD have no adverse comment on the application. To address any possible environmental nuisance, relevant approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. In addition, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (b) to (f) below.
- 11.4 Two public comments objecting the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments and the planning considerations and assessments as stated above 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 in paragraph 10, the Planning Department has no objection to the proposed temporary shop and services 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 26.3.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or 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 implementation of the accepted 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 26.9.2021;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 26.9.2021;
- (g) in relation to (f) above, the implementation of 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 26.12.2021;
- (h) if any of the above planning conditions (a), (b), (c) or (e) 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 (d), (f) or (g) 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 development 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. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification in the submission for a departure from 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 19.10.2020
Appendix Ia	FI received on 27.1.2021
Appendix Ib	FI received on 2.3.2021
Appendices II-1 and II-2	Public comments received during the statutory publication period
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4a and Site Photos
A-4b

PLANNING DEPARTMENT
MARCH 2021