

RNTPC Paper No. A/YL-KTS/901
For Consideration by
the Rural and New Town
Planning Committee
on 24.9.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/901

<u>Applicant</u>	: Mr. Cheung Sun Keung represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1289 (Part) and 1293 (Part) in D.D. 113, Cheung Po, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 512m 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>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<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 of 5 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently paved, partly vacant and partly used for parking of vehicle without planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development will involve the erection of four two-storey structures (each with a floor area of about 54m² and a building height of about 6m), with a total floor area of about 216m², for shop and services use including real estate agency, clinic, convenience store and retail shop, etc. to serve the nearby locals. One private car parking space will be provided within the Site for staff use. The operation hours will be between 9:00 a.m. and 6:00 p.m. daily, including public holidays. The estimated number of visitor to the Site is

about twenty per day, and there will be about eight staff members working at the Site. The Site is accessible from Kam Po Road via a local access. 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 6.8.2021 (Appendix I)
- (b) Further Information (FI) received on 16.9.2021 in response to departmental comments (Appendix Ia)
[exempted from publication requirement]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, the plans and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed temporary shop and services use is intended to serve the nearby local residents. The development is on a temporary basis and will not frustrate the long-term planning intention of the “V” zone.
- (b) The development will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas.
- (c) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and Professional Persons Environmental Consultative Committee Practice Notes for sewerage treatment at the Site. The applicant will comply with the relevant approval conditions to be stipulated by the Board.

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

The applicant is not a “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 a site notice and notifying the Pat Heung Rural Committee by registered mail. 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 at the Site.

6. **Similar Applications**

- 6.1 There are two similar applications (No. A/YL-KTS/542 and 893) for temporary shop and services use (real estate agency) within the adjoining “V” zones in the vicinity of the Site on the Kam Tin South OZP. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) in August 2011 and July 2021 mainly for the reasons that approval of the applications on a temporary basis would not jeopardize the long-term planning intention of the “V” zone; the developments were not incompatible with the surrounding land uses; the developments could provide service to meet some of the needs of the local residents; and relevant departments had no adverse comment. However, the planning permission for Application No. A/YL-KTS/542 was revoked in May 2012 due to non-compliance with planning conditions.

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

- 7.1 The Site is:
 - (a) currently paved, partly vacant and partly used for parking of vehicle without planning permission and;
 - (b) accessible via a local access from Kam Po Road.
- 7.2 The surroundings are rural in character intermixed with residential structures/dwellings, farms, active and fallow agricultural land, parking of vehicles and unused/vacant land:
 - (a) to its east and southeast are a farm and unused land;
 - (b) to its south are active / fallow agricultural land, a farm, unused land and residential structures/dwellings;

- (c) to its west are Small House cluster of Cheung Po, a few residential structures/dwellings and parking of vehicles; and
- (d) to its north are residential structures/dwellings, vacant / unused land and fallow agricultural land.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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 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 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 contain the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on 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 and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

- (c) There is no Small House applications currently under processing or approved at the Site.

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) Should the application be approved, an 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 imposed.
- (c) The Site is connected to the public road network via a section of a local access road which may not be managed by the Transport Department. The land status of the local access road should be checked with 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/ New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Po 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):

- (a) There was no environmental complaint concerning the Site received in the past 3 years.

- (b) 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 DEP to minimize any potential nuisances.

Drainage

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

- (a) He has no objection in-principle to the development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Fire Safety

9.1.6 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 (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 FSIs 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.

Building Matters

9.1.7 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 Site, prior approval and consent of the Building Authority should be obtained, otherwise they are UBW under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comment on UBW, provision of access, temporary or licenced structures are at **Appendix IV**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

Electricity Safety

9.1.8 Comments of Electrical and Mechanical Services Department

The applicant shall approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the Site. The applicant shall also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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 locals’ comments on the application and has no comment from departmental point of view.

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

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

10. Public Comments Received During Statutory Publication Period

On 17.8.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals (**Appendices III-1 and III-2**) were received objecting to the application mainly on the grounds that the applied use will cause environmental pollution, increase fire hazard risk and affect safety and living quality of the villagers; business activity should not be located in densely residential cluster; and detailed information of the proposed shop and services uses should be included in the justifications.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 5 years in the “V” zone. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The applied use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL of LandsD advised that there is no Small House applications approved or under processing within 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.
- 11.2 The applied use is considered not incompatible with the surrounding areas which are rural in character intermixed with residential structures/dwellings, farms, active / fallow agricultural land, parking of vehicles and unused/vacant land.
- 11.3 According to the applicant, the temporary shop and services use under application is intended to serve the local residents. In view of its nature and taking into account the rural context of the Site, the proposed development can serve the needs of the local residents and support the nearby village developments in Cheung Po and Tai Wo (**Plan A-2**). The applied use is not expected to cause significant adverse traffic, environmental and drainage impacts on the surrounding areas. Relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no adverse comment on the application. To minimize any possible environmental nuisance, approval condition restricting the operation hours and type of vehicles are recommended in paragraph 12.2 (a) and (b) below. The applicant will also be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (c) to (h) as recommended in paragraph 12.2 below.

- 11.4 The Site is not the subject of any previous planning application. There are two similar applications for temporary shop and services (real estate agency) use in the adjoining “V” zones approved by the Committee in 2011 and 2021 as stated in paragraph 6 above (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Two public comments were received during the statutory publication period objecting to the application as set out in paragraph 10 above. In this regard, the departmental comments and 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 public comments mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary 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 24.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 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 tractor/trailer, 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 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 24.3.2022;
- (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

24.6.2022;

- (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 24.3.2022;
- (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 24.6.2022;
- (i) if the above planning condition (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 condition (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 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 intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. 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 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 6.8.2021
Appendix Ia	FI received on 16.9.2021
Appendix II	Similar Applications within the Adjoining “V” zones in the vicinity of the Site
Appendices III-1 and III-2	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**