

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/911

<u>Applicant</u>	: Mr. LAU Tak-wing represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 577 RP (Part) in D.D. 106, Kam Sheung Road, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 418m ²
<u>Lease</u>	: Old Schedule Agricultural Lot held under Block Government Lease
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) [Maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 5 years at the application site (the Site). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “OU(RU)” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and deposited with some debris and a disused shed (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the Site is intended for shop and services as a real estate agency to serve the nearby locals. The proposed development will involve three 1-storey structures with total floor area of about 130m² and building height of 3m to 6m for shop and services, storeroom, toilet and rain shelter use. The operation hours of the real estate agency will be from 9:00 a.m. to 7:00 p.m. daily. Two private car parking spaces will be provided within the Site for staff and visitors. The estimated number of staff working at the Site and visitors per day are 5 and 10 persons respectively. The Site is accessible from Kam Sheung Road via a short 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 supplementary information (SI) (**Appendix I**) and plans received on 4.10.2021
- (b) Replacement pages received on 11.10.2021 (**Appendix Ia**)
- (c) Further Information (FI) received on 18.11.2021 in (**Appendix Ib**) response to departmental comments
**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, SI, plans and FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed real estate agency will serve the nearby locals. It is temporary in nature and will not jeopardize the long-term planning intention of the Site.
- (b) The proposed development will not result in adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Appropriate mitigation measures will be provided after planning approval has been granted in the form of complying with relevant approval conditions.
- (c) Approval of the application will not set an undesirable precedent within the “OU(RU)” zone.

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. 31A) by posting notices and sending notice to 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 action.

5. Previous Application

The Site is involved in one previous planning application (No. A/YL-KTS/45) for open storage of vehicles and spare parts. The application was approved on a temporary basis with conditions by the Rural and New Town Planning Committee (the Committee) in 1996 mainly on the grounds that approval of the application on a temporary basis would

not cause adverse impact on the surrounding area (at the time when the Site was zoned “Undetermined” on the OZP); the proposed use was considered not incompatible with the surrounding land uses; the possible environmental concern could be addressed by imposing approval conditions; and approval of the application on a temporary basis could meet the short-term demand for open storage sites in the area. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

There are four similar applications (No. A/YL-KTS/718, 734, 851 and 889) for temporary shop and services for motor vehicle showroom use within the same “OU(RU)” zone in the vicinity of the Site. They were all approved with conditions on a temporary basis by the Committee between 2016 and 2021, mainly on similar grounds that temporary approvals would not jeopardize the long-term planning intention; the applied uses were not incompatible with the surrounding land uses; relevant departments had no adverse comments; and the environmental concerns could be addressed by approval conditions. Nevertheless, the planning permission for Application No. A/YL-KTS/734 was revoked in September 2019 due to non-compliance with planning conditions. Details of these similar applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) partly paved, vacant and deposited with debris and a disused shed; and
- (b) accessible from Kam Sheung Road via a short local track.

7.2 The surrounding areas are rural in character predominated by open storage/ storage yards, warehouses, workshops, residential structures / dwellings, church and kindergarten, vacant land and the site approved for temporary transitional housing:

- (a) to its north, south and west in the “OU(RU)” and “Government, Institution or Community” (“G/IC”) zones are residential structures / dwellings (closest 20m to the west), church and kindergarten, temporary shop and services (with valid planning permission), warehouses and open storage / storage yards (some with valid planning permissions); and
- (b) to its east across Kam Sheung Road in the “Residential (Group D)” zone are residential structures / dwellings, temporary vocational training centre (with valid planning permission), warehouses, workshops, vacant land and the site for temporary transitional housing (with valid planning permission) which is under construction.

8. Planning Intention

The planning intention of the “OU(RU)” zone is for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities.

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 an 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) 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 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 LandsD.

Traffic

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

- (a) He has no comment on the application from the traffic engineering point of view.
- (b) Should the application be approved, 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 local access road which is not managed by the 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/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 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):

- (a) There was no environmental complaint concerning the Site received by DEP in the past three 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.

Nature Conservation

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

Noting that the Site falls within an area zoned “OU(RU)” with a high degree of human disturbance, he has no comment on the application from the nature conservation perspective.

Landscape

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

- (a) She has no objection to the application from the landscape planning perspective.
- (b) According to her record, Application No. A/YL-KTS/851 for temporary shop and services use in the vicinity was approved by the Committee in 2020. Referring to the aerial photo in 2020, the Site is situated in an area of rural landscape character comprising temporary structures, open storage, carpark, scattered tree groups

and vacant land in the vicinity. The proposed use is considered not incompatible with the surrounding environment.

- (c) According to her site visit photos on 19.10.2021, existing common tree species in fair to poor conditions are observed outside the periphery of the northern, western and southern part of the Site. According to the site layout plan in the application form, significant adverse impact on landscape resources within the Site is not anticipated.
- (d) The applicant should be advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under the lease. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works.

Drainage

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

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

Fire Safety

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

- (a) He has no objection in-principle to the application 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 safety requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) 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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

Water Supplies

9.1.10 Comments of the Chief Engineer / Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application subject to the following comments:
 - (i) existing water mains will be affected (as shown on **Plan A-2**). The cost of any necessary diversion, if required, shall be borne by the applicant of the proposed development;
 - (ii) in case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centre line of the water mains shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies and their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (iii) no trees or shrubs with penetrating roots may be planted within the waterworks reserve or in the vicinity of the water main; and
 - (iv) The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or

leakage of the public water mains within and in close vicinity of the Site.

District Officer's Comments

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

His office has not received any comment from the locals and has no comment on the application.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Project Manager (West), Civil Engineering and Development Department; and
- (c) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 12.10.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments (**Appendices IV-1 and IV-2**) from individuals were received. The commenters object to the application mainly on the grounds that the proposed use would result in adverse environmental impact and increase the fire risk, and affect the safety and living standard of the nearby villagers; and the trees within the Site are needed to provide a relief for the district from brownfield sprawl.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for real estate agency use for a period of 5 years at the Site zoned "OU(RU)" on the OZP. The planning intention of the "OU(RU)" zone is for the preservation of the character of the rural area, and uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities. As the proposed use can provide support to the local community and there is no known programme for long-term development at the Site, it is considered that temporary approval of the application for a period of 5 years would not frustrate the long-term planning intention of the "OU(RU)" zone.
- 11.2 The proposed use is considered not incompatible with the surrounding land uses, which are rural in character predominated by residential structures / dwellings, warehouses, workshops, open storage / storage yards, vacant land and the site for temporary transitional housing which is under construction (**Plans A-2 and A-3**).
- 11.3 According to the applicant, the applied use is for a temporary real estate agency which is intended to serve the nearby locals (**Plan A-2**). In view of its nature and

small scale, the applied use is not expected to cause significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. Relevant departments consulted, including C for T, DEP, CTP/UD&L of PlanD and CE/MN of DSD, have no objection to or no adverse comment on the application. To minimize the possible environmental nuisance generated by the proposed development, approval conditions restricting the operation hours and types of vehicle are recommended in paragraphs 12.2 (a) and (b) below. The applicant will also be advised to adopt the latest “Code of Practice on Handling 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 imposing approval conditions (c) to (h) in paragraph 12.2 below.

- 11.4 The Site is involved in one previous planning application (No. A/YL-KTS/45) approved for temporary open storage of vehicles and spare parts in 1996 for reasons as stated in paragraph 5 above. There are four similar applications for temporary shop and services (motor vehicle showroom) use within the same “OU(RU)” zone in the vicinity of the Site, all of which were approved by the Committee between 2016 and 2021 as stated in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Two public comments were received during the statutory publication period objecting to the application as mentioned in paragraph 10 above. In this regard, the departmental comments and planning assessments and considerations 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 as mentioned in paragraph 10 above, the Planning Department has no objection to the 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 26.11.2026. The following conditions of approval 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) no vehicles other than private car 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 26.5.2022;
- (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 26.8.2022;
- (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 26.5.2022;
- (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 26.8.2022;
- (i) if any of 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
- (i) 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 attached at **Appendix V**.

- 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 "OU(RU)" zone which is for the preservation of the character of the rural area. There is no strong planning justification in the submission to justify 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 date when 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 Supplementary Information and Plans received on 4.10.2021
Appendix Ia	Replacement Pages received on 11.10.2021
Appendix Ib	FI received on 18.11.2021
Appendix II	Previous Application Covering the Site
Appendix III	Similar Applications within the “OU(RU)” zone in the Vicinity of the Site
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2021**