

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/967

<u>Applicant</u>	: Fong Man Lung represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	: Lot 479 RP in D.D. 106 and Adjoining Government Land, Kam Tin, Yuen Long
<u>Site Area</u>	: About 2,050m ² (including Government land (GL) of about 219 m ² (10.7%))
<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>	: “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 (Vehicles, Caravans and Construction Materials Showroom) with Ancillary Office 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 (vehicles, caravans and construction materials showroom) with ancillary office for a period of 5 years. The Site falls within an area zoned “OU(RU)” on the Kam Tin South OZP (**Plan A-1**) and ‘Shop and Services’ is a Column 2 use within the “OU(RU)” zone which requires planning permission from the Town Planning Board (the Board). The Site is paved, mostly vacant and partly occupied by temporary structures (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of one 2-storey structure with a total floor area of about 488m² and building height of 8m for vehicle showroom and ancillary site office, and outdoor showroom area. Six private car parking spaces and one light goods vehicle parking space are provided on-site. The proposed operation hours are

between 9:00a.m. and 6:00p.m. daily, including public holidays. The Site is accessible from Kam Sheung Road (**Plans A-1 and A-2**). 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 received on 28.6.2023 **(Appendix I)**
- (b) Further information (FI) received on 15.8.2023* **(Appendix Ia)**
** 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 in the application form, supplementary information and FI at **Appendices I and Ia**, which can be summarized as follows:

- (a) The application is temporary in nature and would not jeopardize the long-term planning intention of the “OU(RU)” zone. The proposed use is not incompatible with the surrounding land uses.
- (b) The business serves to fulfil local and industrial demand for motor vehicles, caravans and construction materials.
- (c) The proposed development will not have adverse traffic and drainage impacts on the surrounding areas. The applicant will comply with all the planning conditions to be stipulated by the Rural and New Town Planning Committee (the Committee).
- (d) The applicant will remedy the unauthorised building works (UBWs) under lease currently at Site and submit Short Term Waiver application to the Lands Department (LandsD).

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 notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. Regarding the portion of the Site falling within GL, the “Owner’s Consent / Notification” Requirements are not applicable.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 38) are relevant to the application. The relevant assessment criteria are summarised as follows:

Application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

5. Background

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

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

- 7.1 There are three similar applications (Nos. A/YL-KTS/851, 899 and 911) for temporary shop and services (including one for vehicle showroom) within the same “OU(RU)” zone in the vicinity of the Site in the past 5 years. All the applications were approved with conditions by the Committee between September 2020 and November 2021 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant government departments consulted in general had no adverse comment or their technical concerns could be addressed by approval conditions. The planning permission of application No. A/YL-KTS/889 was revoked subsequently due to non-compliance with the approval conditions. Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.
- 7.2 Other than the similar applications as stated in paragraph 7.1 above, application No. A/YL-KTS/970 for renewal of planning permission for shop and services will be considered in the same meeting (**Plan A-1**).

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

8.1 The Site is:

- (a) paved, mostly vacant and partly occupied by temporary structures; and
- (b) accessible from Kam Sheung Road on the east.

8.2 The surrounding areas have the following characteristics:

- (a) to its north, west and south are open storage/storage yards, warehouses, parking of concrete vehicles, residential structures / dwellings (the nearest one about 60m to the south) and a service depot for drainage and sewerage works (with planning permission under No. A/YL-KTS/875); and
- (b) to its east across Kam Sheung Road in the “Residential (Group D)” zone is a transitional housing Pok Oi Kong Ha Wai Village (with valid planning permission under Application No. A/YL-KTS/960), residential structures/dwellings, shop and services/vehicle workshops, parking of vehicles, a warehouse and vegetated land.

9. Planning Intention

The planning intention of the “OU(RU)” zone is primarily 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.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

Land Administration

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

- (a) LandsD has adverse comments on the application;
- (b) the Site comprises GL and 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;

- (c) within the Site, portion of GL concerned is covered by the Short Term Tenancy (STT) No. STTYL0119 for the purpose of open storage;
- (d) no permission is given for occupation of GL (about 53m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed; and
- (e) LandsD has grave concerns given that there are UBWs and/or uses on the private lot which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

11. Public Comment Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, a public comment was received from the Aviation Club of Hong Kong objecting to the application mainly on the grounds that the proposed use would cause flight safety concern given its close proximity to the Shek Kong Airfield.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (vehicles, caravans and construction materials showroom) with ancillary office for a period of 5 years at the Site zoned "OU(RU)". The planning intention of the "OU(RU)" zone is primarily 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. Whilst the proposed development is not entirely in line with the planning intention of the "OU(RU)" zone, it is intended to meet the local demand for vehicles, caravans and construction materials. Besides, there is no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the "OU(RU)" zone.
- 12.2 The proposed use is considered not incompatible with the surrounding land uses which are rural in character intermixed with storage / open storage yards, parking of vehicles and residential developments/dwellings (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape, Planning Department considers that significant adverse impact on landscape resources and character arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.

- 12.3 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs at the Site. In this regard, the applicant states that remedial action will be followed-up and Short Term Waiver application will be submitted to LandsD. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is also recommended.
- 12.4 Other relevant departments consulted, including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Director of Environmental Protection (DEP), have no objection or no adverse comment on the application. The application is also generally in line with TPB PG-No. 38 in that the proposal would not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings, nor would it overstrain the capacity of existing and planned infrastructure. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. In addition, the applicant will be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the DEP to minimise any potential environmental nuisances.
- 12.5 There are three approved similar applications for various temporary shop and services within the same "OU(RU)" zone as detailed in paragraph 7 in the past 5 years. Approval of the current application is in line with the Committee's previous decisions.
- 12.6 Regarding the public comment objecting to the application due to flight safety concern, the proposed development with building height of not more than 8m does not exceed the airport height restrictions of Shek Kong Airfield (i.e. 69mPD) applicable to the Site.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection for a period of 5 years.
- 13.2 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 25.8.2028. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the site during the planning approval period;

- (b) the submission of a revised 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 25.2.2024;
- (c) in relation to (b) above, the implementation of the revised 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 25.5.2024;
- (d) in relation to (c) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.2.2024;
- (f) in relation to (e) 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 25.5.2024;
- (g) if any of the above planning condition (a) or (d) 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
- (h) if any of the above planning condition (b), (c), (e) or (f) 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 V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form with supplementary information received on 28.6.2023
Appendix Ia	FI received on 15.8.2023
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2023**