

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTS/972**

<b><u>Applicant</u></b>	:	R-riches Asset Management Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lots 341, 342, 343, 344 (Part) and 350 (Part) in D.D. 109, Kam Sheung Road, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	:	About 4,683 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	:	“Residential (Group C)” (“R(C)”) [Maximum plot ratio of 0.8, maximum site coverage of 40% and maximum building height of 4 storeys (12m)]
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services, Eating Place, Place of Recreation, Sports or Culture and Public Vehicle Park (excluding Container Vehicle) with Ancillary Facilities for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary shop and services, eating place, place of recreation, sports or culture and public vehicle park (excluding container vehicle) with ancillary facilities for a period of 5 years at the application site (the Site), which is zoned “R(C)” on the Kam Tin South OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’, ‘Eating Place’, ‘Place of Recreation, Sports or Culture’ and ‘Public Vehicle Park (excluding container vehicle)’ use are Column 2 uses in the “R(C)” zone, which require planning permission from the Town Planning Board (the Board). The eastern portion of the Site is currently used as shop and services and eating place with valid planning permissions under applications No. A/YL-KTS/812 and 929 which are valid until 22.2.2024 and 1.11.2025 respectively. The western portion of the Site is vacant, partly formed and covered by weeds (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the development involves 15 one-to-two-storey temporary structures with building heights ranging from 3m to 7.2m and a total

floor area of 1,663m<sup>2</sup> for shop and services, eating place, place of recreation, sports or culture (fitness centre), washroom, guard room, caretaker office, fire service water tank and panel, meter room and store room to be accommodated mainly on the eastern portion. 28 parking spaces for private cars and two loading/unloading (L/UL) spaces for light goods vehicles will be provided on the western portion. The proposed operation hours for the shops and services and eating place are between 7:00 a.m. to 9:00 p.m. daily. The proposed operation hours for place of recreation, sports or culture and public vehicle park are 24 hours daily. The estimated number of staff and visitors are 40 and 80 per day respectively. The Site can be accessed through a local track connected to Kam Sheung Road. Three pedestrian accesses would be provided on the eastern, western and southern boundaries respectively. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site, in part or in whole, is involved in 11 previous applications for various temporary public vehicle park, shop and services, eating place and place of entertainment uses (details in paragraphs 5.2 and 5.3 below). The five applications for temporary public vehicle park were rejected by the Rural and New Town Planning Committee (the Committee) between 2001 and 2016 (**Plan A-1c**). The remaining six applications for various temporary shop and services, eating place and place of entertainment uses, all covering the eastern portion of the Site, were approved with conditions by the Committee between 2017 and 2022 (**Plan A-1b**). The last applications approved for temporary shop and services (A/YL-KTS/812), which was submitted by the same applicant as the current application, and temporary eating place (A/YL-KTS/929) are valid until 22.2.2024 and 1.11.2025 respectively. The relevant approval conditions have been complied with.
- 1.4 Compared with the last approved applications No. A/YL-KTS/812 and 929 covering the eastern portion of the Site, the current application involves increase in site area covering the western portion with additional structures and public vehicle parking spaces.
- 1.5 In support of the application, the applicant has submitted the following document:
  - (a) Application form with attachments received on 21.7.2023 (**Appendix I**)
  - (b) Further Information (FI) received on 31.7.2023\* (**Appendix Ia**)
  - (c) FI received on 21.9.2023\* (**Appendix Ib**)
  - (d) FI received on 25.10.2023\* (**Appendix Ic**)
  - (e) FI received on 1.11.2023\* (**Appendix Id**)

\* *accepted and exempted from publication and recounting requirements*
- 1.6 On 11.9.2023, the Committee 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, supplementary information and FIs at **Appendices I to Id**. They can be summarised as follows:

- (a) The proposed uses are intended to serve the residential neighborhood. It is in line with the planning intention of the “R(C)” zone which is for ‘low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board’.
- (b) With the increase in residents and workers in Kam Tin area, there is a growing demand for various commercial and recreational facilities in the area. The Site is owned by Tso Tong, and it is difficult to develop the Site for residential use. The applied use will be able to utilise the land resources. The proposed development could benefit the local economy by creating additional local employment opportunities.
- (c) Previous rejected applications for public vehicle park were submitted by different applicants. Residential and commercial developments have been developed in the past years, which have substantially changed the planning context for the surrounding areas. There is a higher demand for commercial use and parking spaces to cater for the needs of the local community in Kam Tin area.
- (d) There is a high occupancy rate of the existing public vehicle park adjacent to the Kam Sheung Road MTR Station. The proposed public vehicle park can alleviate the pressing demand for parking spaces and illegal on-street parking in Kam Tim area; to minimise adverse traffic impact to the nearby road network and enhance pedestrian safety; and serve the proposed shop and services and eating place uses.
- (e) The proposed development is not incompatible with the surrounding area. A 2.5m high fence wall with artificial vertical greening is proposed to be installed along the southwestern boundary for the proposed public vehicle park use to minimise potential visual impact to the nearby residents.
- (f) The applicant is currently operating the development in the eastern portion of the Site with valid planning permission under application No. A/YL-KTS/812. The applicant has complied with all of the approval conditions. The applicant will make effort to comply with the approval conditions of the current application within the designated time periods.

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

The applicant is not the “current land owner” of the Site 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 obtaining the consent of the owners. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

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

## **5. Previous Applications**

- 5.1 The Site, in part or in whole, is involved in 11 previous applications for various temporary public vehicle park, shop and services, eating place and place of entertainment uses. Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plans A-1b and A-1c**.

### *Approved applications (Plan A-1b)*

- 5.2 Applications No. A/YL-KTS/721, 737 and 812 which are for various temporary shop and services uses, and applications No. A/YL-KTS/829, 830 and 929 which are for temporary eating place and temporary place of entertainment (indoor children playground) in the eastern portion of the Site were all approved with conditions by the Committee between 2017 and 2022 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “R(C)” zone; the development was not incompatible with the surrounding land uses; the relevant government departments had no adverse comments; and departmental concerns could be addressed by imposing approval conditions. The planning permissions of applications No. A/YL-KTS/721, 737 and 829 were revoked due to non-compliance with approval conditions. The latest planning permissions of applications No. A/YL-KTS/812 and 929 are valid until 22.2.2024 and 1.11.2025 respectively. The relevant approval conditions have been complied with.

### *Rejected applications (Plan A-1c)*

- 5.3 Applications No. A/YL-KTS/245, 257, 607, 662 and 711 for various temporary public vehicle park were rejected by the Committee between 2001 and 2016 mainly on the grounds that the proposed development was not in line with the planning intention of the “R(C)” zone; the proposed development was not compatible with the surrounding land uses; and there was insufficient information to demonstrate that the proposed development would not cause adverse environmental, landscape, traffic and/or drainage impacts on the surrounding area.

## **6. Similar Application**

There is no similar application within the same “R(C)” zone.

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

- 7.1 The Site is:

- (a) occupied by shop and services and eating place uses with valid planning permissions under applications No. A/YL-KTS/812 and 929 on the eastern portion;
- (b) vacant, partly formed and covered by weeds on the western portion;
- (c) accessible from Kam Sheung Road via a local track in the north and from

West Rail Kam Sheung Road Station via a footpath on the south.

- 7.2 The surrounding areas are rural in character mixed with low-rise residential developments, vacant lands, open storage, parking of vehicles and a restaurant. To the northwest, southwest, northeast and southeast are residential developments, namely Super King Court (威皇花園), Kat Hing Garden (吉慶花園), Noble Park (豪景富居) and Tsui Yee Garden (翠怡花園).

## **8. Planning Intention**

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

## **9. Comments from Relevant Government Departments**

- 9.1 Apart from the government department as set out in paragraphs 9.2 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.

- 9.2 The following government department supports the application:

### **Transport**

- 9.2.1 Comments of the Commissioner for Transport (C for T):

- (a) supportive to the planning application from traffic engineering perspective to address the local demand for car parking spaces; and
- (b) advisory comments are in **Appendix IV**.

## **10. Public Comments Received During Statutory Publication Periods (Appendix V)**

The application was published for public inspection. During the statutory public inspection period, 33 public comments from 15 residents living nearby and 18 individuals were received. 14 residents and 17 individuals support the application mainly on the grounds that the proposed development could address the shortage of parking space and illegal parking issue in the Kam Tin area; the proposed shop and services, eating place and place of recreation, sports or culture could benefit the local residents; the proposed pedestrian access could provide residents with a convenient way to reach Kam Sheung Road MTR station; and the proposed development could better utilise land resources. One individual raises concerns about fire safety and drainage impact of the proposed development as it is in between two residential developments as well as the landscape impact. One resident objects to the application on the grounds that the development would cause adverse noise and hygiene impacts.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary shop and services, eating place, place of recreation, sports or culture and public vehicle park (excluding container vehicle) with ancillary facilities for a period of 5 years at the Site zoned “R(C)”. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of the “R(C)” zone. Nevertheless, the applicant states that the proposed development is to serve the local neighbourhood. C for T supports the application from traffic engineering perspective to address the local demand for car parking spaces. Besides, there is no known programme for long-term development at the Site. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(C)” zone.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses which are mixed with low-rise residential developments and vacant lands, the applicant proposes to erect a fence wall along the southwestern boundary to minimize environmental impact on the neighbouring residential developments. The Chief Town Planner/Urban design and Landscape of the Planning Department (CTP/UD&L, PlanD) considers that significant landscape impact arising from the proposed development is not anticipated. There was no substantiated environmental complaint concerning the Site in the past three years. The Director of Environmental Protection (DEP) has no objection to the application from environmental perspective.
- 11.3 Other relevant government departments consulted including the Chief Engineer/Mainland North of the Drainage Services Department, the Director of Food and Environmental Hygiene (DFEH) and the Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. To minimise any potential environmental nuisance, the applicant will also be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”; the Practice Note for Professional Person PN 5/93 on “Drainage Plans subject to Comment by Environmental Protection Department (EPD)” including retention time for grease trap and minimum clearance distance, percolation test and certification by Authorized Person for septic tank and soakaway system; and “Control of Oil Fume and Cooking Odour from Restaurant and Food Business” issued by EPD.
- 11.4 The Site is involved in 11 previous applications. The five applications for temporary public vehicle park were rejected by the Committee mainly on the grounds that the proposed development was not in line with the planning intention of the “R(C)” zone; it was not compatible with the surrounding land uses; and there was insufficient information to demonstrate that it would not cause adverse environmental, landscape, traffic and/or drainage impacts on the surrounding area. The planning circumstances of the current application are different from the rejected previous applications in that C for T supports the application to address

the local demand for car parking spaces and relevant departments have no objection to or no adverse comment on the application. The shop and services and eating place uses are subject to operation hours and fence wall will be provided to minimise potential impacts on the nearby residents. The other previous applications for temporary shop and services, eating place and place of entertainment were all approved with conditions by the Committee. In consideration of the latest planning circumstances, planning permission could be granted on a temporary basis.

- 11.5 Regarding the public comments raising concerns and objection to the application as mentioned in paragraph 10 above, the departmental comments and planning 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 as mentioned in paragraph 10 above, the Planning Department has no objection to the proposed development 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 10.11.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation for the shop and services and eating place uses between 9:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no public announcement system, portable loud speaker, or any form of audio amplification system is allowed to be used on the site at any time during the planning approval period;
- (c) 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 10.5.2024;
- (d) in relation to (c) 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 10.8.2024;
- (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 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 10.5.2024;

- (g) in relation to (f) 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 10.8.2024;
- (h) if any of the above planning condition (a), (b) 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 condition (c), (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 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 "R(C)" zone which is primarily intended for low-rise and low-density residential developments. No strong 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**

<b>Appendix I</b>	Application form with attachment received on 21.7.2023
<b>Appendix Ia</b>	FI received on 31.7.2023
<b>Appendix Ib</b>	FI received on 21.9.2023
<b>Appendix Ic</b>	FI received on 25.10.2023



<b>Appendix Id</b>	FI received on 1.11.2023
<b>Appendix II</b>	Previous and similar applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public Comments
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1a</b>	Location plan
<b>Plan A-1b to 1c</b>	Previous application plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a to 4b</b>	Site photos

**PLANNING DEPARTMENT  
NOVEMBER 2023**