

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

**APPLICATION NO. A/YL-KTS/985**

<b><u>Applicant</u></b>	:	LUI Wai Shan represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lots 1878 RP (Part) and 1879 RP (Part) in D.D. 106, Pat Heung, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 213m <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)1” (“R(C)1”) <i>[Restricted to a maximum plot ratio (PR) of 0.4 and maximum building height (BH) of 3 storeys (9m) including car park]</i>
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to for proposed temporary shop and services for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “R(C)1” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and covered with weeds (**Plans A-2 to A-4**).
- 1.2 The Site abuts Pat Heung Road. According to the applicant, the proposal is for a real estate agency to serve the nearby locals. The proposed use involves a two-storey (about 6m) structure with a total floor area of about 136m<sup>2</sup> for shop and services with ancillary storage and office uses. There is no provision of car parking or loading/unloading at the Site. The proposed operation hours are from 9:00 a.m. to 6:00 p.m. daily. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is the subject of an approved previous application No. A/YL-KTS/920 submitted by the same applicant for the same use at the same site with the same layout as the current application (details under paragraph 5 below).

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary information received on 28.12.2023 **(Appendix I)**
- (b) Further Information (FI) received on 19.2.2024\* **(Appendix Ia)**
- (c) FI received on 8.5.2024\* **(Appendix Ib)**  
*\*accepted and exempted from publication and recounting requirements*

1.5 On 16.2.2024 and 19.4.2024, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months each 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 with supplementary information (**Appendix I**). They can be summarised as follows:

- (a) The proposed shop and services (real estate agency) is to serve the nearby locals and temporary in nature which will not jeopardise the long-term planning intention of the “R(C)” zone. It is not incompatible with the surrounding environment.
- (b) The proposed development is small in scale and visitors/staff are required to access to the Site by using public transport and/or walking. The proposed development will not create significant nuisance to the surrounding areas. The applicant will strictly follow the relevant statutory environmental requirements and practice notes so as to minimise possible adverse impacts and environmental nuisance to the nearby residents.

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

The applicant is not the “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” Requirement under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting notice at the Site 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 currently not subject to any active planning enforcement action.

## 5. **Previous Application**

The Site is involved in a previous application (No. A/YL-KTS/920) for the same use at the same site with the same layout submitted by the same applicant. The application was approved with conditions by the Committee on 20.5.2022 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “R(C)” zone; the proposed use was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by appropriate approval conditions. However, the planning permission was subsequently revoked in November 2023 due to non-compliance with the approval conditions on the submission and implementation of drainage proposal and the implementation of fire services installations (FSIs) proposal. Details of the previous application are summarised in **Appendix II** and the location is shown on **Plan A-1**.

## 6. **Similar Application**

There is no similar application within the same “R(C)1” zone.

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

7.1 The Site is:

- (a) abutting Pat Heung Road; and
- (b) currently vacant and covered with weeds.

7.2 The surrounding areas have the following characteristics:

comprise predominantly residential structures/dwellings, gardening, grassland, petrol filling station, real estate agencies (with valid planning permissions under applications No. A/YL-KTS/948 and 961 within “Village Type Development” and “Agriculture” zones), parking of vehicles and storage yard which some of them are suspected unauthorized developments.

## 8. **Planning Intention**

The “R(C)” zone is intended 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**

All government 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.

## **10. Public Comment Received During Statutory Publication Period**

On 2.1.2024, the application was published for public inspection. During the statutory publication period, one public comment was received from an individual raising concerns mainly on adverse fire safety impact and the non-compliance history under the previous application (**Appendix V**).

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

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “R(C)1” (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the “R(C)” zone which is primarily for low-rise, low density residential developments, it could serve any such demand for shop and services in the area. There are also no known development programme or proposals for the Site. As such, approval of the application on a temporary basis for a period of 3 years would not jeopardise the long-term development of the area.
- 11.2 The surrounding area comprises predominantly residential structures/dwellings, gardening, grassland, petrol filling station, real estate agencies, parking of vehicles and storage yard (**Plan A-2**). The proposed use is generally not incompatible with the surrounding area.
- 11.3 Relevant government departments including the Commissioner for Transport, the Director of Environmental Protection (DEP), the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD), the Director of Fire Services (D of FS) and the Chief Town Planner/Urban Design and Landscape of the Planning Department have no objection to or no adverse comment on the application from traffic, environmental, drainage, fire safety and landscape impacts perspectives respectively. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental nuisance on the surroundings.
- 11.4 The Site is the subject of an approved previous application submitted by the same applicant for the same use as the current application as mentioned in paragraph 5 above. However, the planning permission was subsequently revoked in 2023 due to non-compliance with the time-limited approval conditions related to the submission and implementation of drainage proposal and the implementation of FSIs proposal. In this regard, drainage and FSIs proposals have been submitted under the current application and have been accepted by CE/MN of DSD and D of FS respectively. As such, sympathetic consideration may be given to the current application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further applications.

- 11.5 Given that the Committee has approved a previous application for the same use at the same site in 2022, approval of the current application is in line with the Committee's previous decision.
- 11.6 Regarding the public comment received as summarised in paragraph 10 above, the planning consideration and assessments in paragraphs 11.1 to 11.5 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 comment mentioned in paragraph 10, the Planning Department has no objection to the application.
- 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 three years until 5.7.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) the implementation of the accepted 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 5.4.2025;
- (b) in relation to (a) above, the implemented drainage facilities at the site shall be maintained at all times during the planning approval period;
- (c) the implementation of the accepted 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 5.4.2025;
- (d) if the above planning condition (b) 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
- (e) if any of the above planning condition (a) or (c) 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 in **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 use is not in line with the planning intention of the "R(C)" zone which is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the

Town Planning Board. There is no strong planning justification 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 supplementary information received on 28.12.2023
<b>Appendix Ia</b>	FI received on 19.2.2024
<b>Appendix Ib</b>	FI received on 8.5.2024
<b>Appendix II</b>	Previous application
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comment
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
JULY 2024**