

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1043

- Applicant** : Consense Development Limited (港昇發展有限公司)
- Site** : Lots 2612 (Part), 2616 (Part) and 2819 (Part) in D.D. 111 and Adjoining Government Land (GL), Pat Heung, Yuen Long, New Territories
- Site Area** : About 1,369m² (including GL of about 12m² (0.9%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Agriculture” (“AGR”) (about 51%)
“Village Type Development” (“V”) (about 49%)
[restricted to maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services (Motor-vehicle Showroom) with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (motor-vehicle showroom) with ancillary facilities for a period of three years and associated filling of land at the application site (the Site), which falls within an area partly zoned “AGR” (about 51%) and partly zoned “V” (about 49%) on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ other than those on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use for the “V” zone which requires planning permission from the Town Planning Board (the Board), while it is neither a Column 1 nor Column 2 use for the “AGR” zone. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Board. Filling of land within the “AGR” and “V” zones also requires planning permission from the Board. The Site is currently paved and largely vacant with some temporary structures (**Plan A-4**).
- 1.2 The Site is accessible from Kam Tin Road via a local track (**Plan A-2**). According to the applicant, the proposed use involves one single-storey structure with a height

of 2.5m for shelter use and one two-storey structure with a height of 5m for office and ancillary storage use, and the total floor area is not more than 155m² (**Drawing A-1**). One parking space for private car and four motor-vehicle displaying spaces will be provided within the Site. The applicant also applies for regularisation of associated filling of land for the entire Site with concrete of not more than 0.03m in depth for site formation (**Drawing A-2**). The proposed operation hours will be between 8:00 a.m. and 6:00 p.m. daily, including public holidays. There will be no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities to be conducted on the Site and only private cars and light goods vehicles will be parked within the Site. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application Form with supporting documents received (**Appendix I**) on 23.12.2024
- (b) Further Information (FI) received on 7.2.2025* (**Appendix Ia**)

** accepted and 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 and FI at **Appendices I** and **Ia**, and can be summarised as follows:

- (a) The proposed use on a temporary basis would not jeopardise the long-term planning intentions of the “AGR” and “V” zones.
- (b) A similar application (No. A/YL-PH/955) for shop and services was approved in September 2023 within another “AGR” zone on the OZP and it is considered that the planning circumstances of the current application are similar to this approved application.
- (c) The applicant will apply for Short Term Waiver (STW) and Short Term Tenancy (STT) should the current application be approved, and will remove the unauthorised structures at the Site.

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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notices and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

4. **Background**

The Site is part of a larger site which is subject to planning enforcement action against unauthorized development (UD) involving storage use (No. E/YL-PH/934) (**Plan A-2**). An Enforcement Notice (EN) was issued on 17.10.2024 requiring discontinuation of the UD. As the requirement of the EN was not complied with upon expiry of the notice, prosecution action is being considered.

5. **Previous Applications**

The Site is the subject of two previous applications (No. A/YL-PH/587 and 624) for temporary open storage of recyclable office equipment with ancillary workshop which were rejected by the Rural and New Town Planning Committee (the Committee) in 2009 and 2011 respectively. The considerations of these applications are not relevant to the current application which involves a different use. Details of these applications are summarised at **Appendix II** and the locations are shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 There are 18 similar applications, involving 13 sites, for various temporary shop and services uses (including renewal of planning approvals granted) within the “AGR” or “V” zones in the vicinity of the Site in the past five years.
- 6.2 One of the applications (No. A/YL-PH/879) within the “AGR” zone was rejected by the Committee in April 2021 mainly for the reasons that the proposed use was not in line with the planning intention of the “AGR” zone and not compatible with the surrounding area which was mainly vacant/unused land with “Conservation Area” (“CA”) zone and Lam Tsuen Country Park in the vicinity. The considerations are not entirely relevant to the current application due to different site context, as detailed in paragraph 7.2 below.
- 6.3 The remaining 17 applications within the “V” zone were all approved with conditions by the Committee between January 2020 and January 2025 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed/applied use was not incompatible with the surrounding land uses; and the concerned government departments consulted in general had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permissions under applications No. A/YL-PH/818, 867, 880, 889 and 925 were subsequently revoked between January 2021 and June 2024 due to non-compliance with approval conditions. Details of these similar applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.
- 6.4 Other than the similar applications mentioned above, two applications (No. A/YL-PH/1032 and 1042) for temporary shop and services uses (one for motor-vehicle showroom as the current application) within the same “V” zone on the OZP will be considered at the same meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) currently paved and largely vacant with some temporary structures; and
- (b) accessible from Kam Tin Road via a local track

7.2 The surrounding land uses are rural in character comprising mainly residential structures of Wang Toi Shan Shan Tsuen and Wing Ning Lei intermixed with vehicle parks (one with valid permission under application No. A/YL-PH/1004), open storage/storage yards, vacant land and grassland.

8. Planning Intentions

- 8.1. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2. According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.
- 8.3. The planning intention of the “V” zone is to reflect existing recognised 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 the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

- 9.1. Apart from the government departments as set out in paragraph 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, if any, are provided in **Appendices IV and V** respectively.

9.2. The following government departments do not support the application:

Land Administration

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

- (a) objects to the application;
- (b) the Site comprises GL and Old Schedule Agricultural Lots 2612, 2616 and 2819 all in D.D. 111 held under the Block Government Lease which contains restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) there is/are unauthorized structure(s) on the private lot(s) which is/are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/regularize the lease breaches as demanded by LandsD;
- (d) if the planning application is approved, the lot owner(s) shall apply to this office for a STW and/or STT to permit the structure(s) erected within the said private lot(s) and the occupation of the GL. The application(s) for STW and/or STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and/or STT, if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate by LandsD. Besides, given the proposed use in temporary in nature, only erection of temporary structure(s) will be considered; and
- (e) no Small House application approved or under processing at the Site.

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation; and
- (b) no comment on the application from nature conservation perspective as the Site falls within the “AGR” and “V” zones and has been paved.

10. Public Comments Received During Statutory Publication Period

On 31.12.2024, the application was published for public inspection. During the statutory public inspection period, two public comments respectively from an individual and the Kadoorie Farm and Botanic Garden were received (**Appendix VI**). Both comments

expressed concerns that the unauthorised development/use at the Site should be investigated.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (motor-vehicle showroom) with ancillary facilities for a period of three years and associated filling of land at the Site partly zoned “AGR” (51%) and partly zoned “V” (49%) (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the “V” zone, according to the applicant, the proposed use is intended to serve the local neighbourhood. Besides, DLO/YL, LandsD advises that there is no Small House application approved or under processing at the Site. The proposed use of temporary nature would not adversely affect the land availability for NTEH/Small House within the “V” zone in the long term. It is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone. Although the proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the assessments below, there is no objection to the proposed use of temporary basis of three years with associated filling of land.
- 11.2 Filling of land within the “AGR” and “V” zones requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding land uses within the “AGR” zone. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from public drainage and environmental perspectives respectively. Should the Committee decide to approve the application, an approval condition requiring reinstatement of the “AGR” portion of the Site to an amenity area upon expiry of the planning permission is recommended.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which mainly comprise residential structures of Wang Toi Shan Shan Tsuen and Wing Ning Lei intermixing with vehicle parks, open storage/storage yards, vacant land and grassland. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application and considers that significant landscape impact arising from the proposed use is not anticipated.
- 11.4 Other relevant government departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 12.2 below. It is also recommended to advise the applicant to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise the potential environmental nuisance on the surrounding land uses. Regarding DLO/YL, LandsD’s concerns on the unauthorised structures within the Site, the applicant will

be advised to liaise with LandsD on these land administration matters should the Committee approve the application.

- 11.5 There are 17 similar applications for various temporary shop and services uses within the same “V” zone in the vicinity of the Site approved by the Committee in the past five years as detailed in paragraph 6.3 above. While there is one rejected application (No. A/YL-PH/879) falling entirely within the same “AGR” zone, as detailed in paragraph 6.2 above, the considerations of this application are not entirely relevant to the current application due to different site context. Hence, approving the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comments expressing concerns 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 mentioned in paragraph 10 above, PlanD 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 14.2.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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 14.8.2025;
- (b) in relation to (a) 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 14.11.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 14.8.2025;
- (e) in relation to (d) 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 14.11.2025;
- (f) if the above planning condition (c) 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;

- (g) if any of the above planning condition (a), (b), (d) or (e) 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; and
- (h) upon expiry of the planning permission, the reinstatement of the “Agriculture” portion of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are 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 use with associated filling of land is not in line with the planning intentions of the “AGR” and “V” zones. The “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The “V” zone is to provide land primarily 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 of “AGR” and “V” zones, 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 supporting documents received on 23.12.2024
Appendix Ia	FI received on 7.2.2025
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBURARY 2025**