

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

**APPLICATION NO. A/YL-SK/296**

<b><u>Applicant</u></b>	: Kintoon Holdings Limited represented by PlanPlus Consultancy Limited
<b><u>Site</u></b>	: Lot 841 RP in D.D. 114, Shek Kong, Yuen Long
<b><u>Site Area</u></b>	: About 1,869 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<b><u>Zoning</u></b>	: “Residential (Group D)” (“R(D)”) <i>[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]</i>
<b><u>Application</u></b>	: Proposed Temporary Eating Place and Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary eating place and shop and services for a period of 3 years. The Site falls within an area zoned “R(D)” on the approved Shek Kong OZP (**Plan A-1**). According to the Notes of the OZP, ‘Eating Place’ and ‘Shop and Services’ are Column 2 uses within “R(D)” zone, and planning permission from the Town Planning Board (the Board) is required for both uses. The Site is currently partly vacant and partly occupied by some structures.
- 1.2 According to the applicant, the proposed development comprises seven single-storey structures with a building height of not exceeding 3.9m and a total floor area of about 313.3m<sup>2</sup>, which are proposed to be used for eating place and kitchen, shop for farm/bakery products and houseware, storage, toilets and pavilion (**Drawing A-1**). While the eating place and kitchen is accommodated in an existing permanent structure (in concrete), the remaining six are temporary structures converted from containers. An ancillary leisure garden and open-air photo-shooting area (of about 632.6 m<sup>2</sup>) (**Drawing A-1**) are also proposed for the customers of the proposed eating place and shop and services. The operation hours will be 9:00a.m. to 10:00p.m. daily. The remaining area (923.1 m<sup>2</sup>) will mainly

be used as outdoor eating/dining area, and parking and circulation spaces. Six parking spaces for private cars and one loading/unloading space for light goods vehicles will be provided on-site. The Site is directly accessible from Kam Sheung Road (**Plan A-2**). The 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 received on 13.1.2021 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Further information (FI) received on 4.3.2021 (*exempted from publication*) (Appendix Ib)

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia and Ib**, and are briefly summarised as follows:

- (a) the proposed development is intended to provide dining services and a wide range of products including household equipment, bakery products, farm products etc. to the residents/workers in the nearby neighbourhood in Shek Kong area. The neighbourhood could be benefited from the provision of diversified day-to-day services at a prominent location along Kam Sheung Road;
- (b) the proposed development is considered to be similar to the two recently approved applications for similar shop and services uses (A/YL-SK/248 and 270) (**Plans A-1 and A-2**) nearby in terms of nature and operation hours. It is also compatible with the surrounding land uses in terms of location and development density. Being temporary in nature, the proposed development would not affect the long-term planning intention of the “R(D)” zone;
- (c) the estimated maximum number of staff and customers would be 5 and 25 per day respectively. Six private car parking spaces and one loading/unloading space for light goods vehicles will be provided for staff/visitors and logistics of commodities to/from the Site. Due to convenient location of the Site, customer/staff can also get access to the Site via public transport. As the traffic generation will be minimal, no adverse traffic impact is envisaged due to the proposed use; and
- (d) the proposed development will not create significant adverse environmental and drainage impacts. Adequate mitigation measures will be provided upon approval of the application.

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

The applicant is the sole ‘current land owner’. 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**

There is no previous application in respect of the Site.

#### 6. **Similar Applications**

6.1 While there is no similar application for temporary eating place use approved within the same “R(D)” zone, there are four similar applications (Nos. A/YL-SK/248, 251, 270 and 271) for various temporary shop and services uses within the same zone on the OZP, which were approved by the Rural and New Town Planning Committee (the Committee) between 2019 and 2020. Details of these applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6.2 The above four applications for various temporary shop and services uses (including hardware groceries retail shop, real estate agency, and metalware retail shops), all for a period of 3 years, were approved with conditions by the Committee on the similar considerations that the developments would not frustrate the long-term planning intention of the “R(D)” zone; they were not incompatible with the surrounding environment; relevant Government departments had no adverse comment on the applications; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval of the application No. A/YL-SK/251 was revoked on 19.7.2020 due to non-compliance with approval conditions in relation to the submission and implementation of fire service installations (FSIs) and drainage proposals.

#### 7. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3**, and site photos on **Plan A-4**)

7.1 The Site is:

- (a) partly vacant and partly occupied by some structures; and
- (b) directly accessible from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character and intermixed with existing domestic dwellings/structures, shop and services, open storage yards and workshops, religious institutes/structures, and vacant land (**Plan A-2**):

- (a) to its immediate north is Kam Sheung Road, and to its further north are some domestic dwellings/structures intermixed with a Buddha hall, a copper ware manufacturing factory, fallow farmland and vacant land in “Village Type Development” (“V”) zone;

- (b) to its east is a restaurant, a couple of car repair workshops and open storage of vehicles, a Buddhist altar, a bamboo scaffolding site and a piece of vacant land;
- (c) to its south are several domestic dwellings/structures, a construction site and a nullah, to its further south are a few open storage yards and workshops, few domestic dwellings/structures, and vacant land; and
- (d) to its west are a retail shop for hardware groceries (approved under Application No. A/YL-SK/248), two real estate agencies (one of which approved under Application No. A/YL-SK/270), and a few domestic dwellings/structures.

## **8. Planning Intention**

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

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

- 9.1 The following Government departments have been consulted and their views on the application are summarised 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; and
- (b) should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularise 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) having regard to the FI (**Appendix Ia**), he has no comment on the application from traffic engineering perspective; and
- (b) should the application be approved, approval condition that 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.

### 9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road; and
- (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) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department to minimise any potential environmental nuisances; and
- (b) there is no substantiated environmental complaint in relation to the Site received by DEP in the past three years.

## **Food and Environmental Hygiene**

### 9.1.5 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) if the proposal involves any commercial/trading activities, there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses; and
- (b) proper licence/permit issued by his department is required if there is any catering service/activities regulated by him under the Public Health and Municipal Services Ordinance (Cap. 132) and

other relevant legislation for the public.

### **Drainage**

9.1.6 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 public drainage point of view; and
- (b) should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

### **Building Matters**

9.1.7 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; and
- (b) for unauthorised building works (UBW) erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the Buildings Ordinance (BO).

### **Fire Safety**

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

- (a) he has no objection in-principle to the proposal subject to 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 locations where the proposed FSIs to be installed should be clearly marked on the layout plans; and

- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO or application for licence for the subject eating place is required, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

### **District Officer's Comments**

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

he has not received any comments from locals upon close of consultation and he has no particular comment on the application.

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

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

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

On 22.1.2021, the application was published for public inspection. During the three-week statutory publication period, a total of 27 public comments (**Appendix III**) were received from a Yuen Long District Council Member, two Indigenous Inhabitant Representatives and one Resident Representative of Sheung Tsuen, Chairperson and Vice-chairperson of Sheung Tsuen Village Committee and 19 local residents (all in similar letter format), and two individuals. Among the 27 public comments, 26 comments object to the application mainly on the grounds that the application would worsen the traffic condition and congestion issue in Kam Sheung Road; the queuing back of vehicles to Kam Sheung Road would lead to potential safety concern; the application is a business investment in nature which is not in line with the planning intention of the Site and cause nuances to the nearby residents; and the provision of eating place and shop and services within a village residential cluster would lead to environmental pollution, fire safety hazard and adversely affect the safety and quality of living of the villagers. The remaining one comment indicates that the application may legitimise the existing uses on-site.

## **11. Planning Considerations and Assessment**

11.1 The application is for proposed temporary eating place and shop and services uses at the Site for a period of 3 years (**Plan A-1**). The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into

permanent buildings. While the proposed ‘eating place’ and ‘shop and services’ uses are not entirely in line with the planning intention of the “R(D)” zone, approval of the application for 3 years on a temporary basis would not frustrate the long-term planning intention of “R(D)” zone.

- 11.2 According to the applicant, the proposed development is intended to serve the needs of the residents/workers of the surrounding neighbourhood in Shek Kong area. The proposed development comprising seven single-storey structures with a total floor area of 313.3m<sup>2</sup> is considered not incompatible with the surrounding areas which are intermixed with existing domestic dwellings/structures, shop and services, open storage yards and workshops, religious institutes/structures, and vacant land (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD, D of FS and DFEH have no adverse comment on/no objection to the application from traffic, environmental, drainage, landscape, fire safety, as well as public hygiene perspectives. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage, landscape, fire safety, and public hygiene impacts on the surrounding areas. To minimise the possible environmental nuisance generated by the proposed use, approval conditions restricting the operation hours and types of vehicles entering the Site are recommended in paragraphs 12.2 (a) to (b) below. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2 (c) to (h) below. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.3 While there is no similar application for temporary eating place use approved within the same “R(D)” zone, there are four similar applications for various temporary shop and services uses within the same zone, which were approved by the Committee between 2019 and 2020. The Committee’s considerations on these applications as stated in paragraph 6 are generally applicable to the current application and approval of this application is in line with the previous decisions of the Committee.
- 11.4 Regarding the 27 public comments received during the statutory publication period, the departmental comments and planning considerations and assessment above are relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments 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 3 years until 12.3.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:



Approval conditions

- (a) no operation between 10:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, 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 **12.9.2021**;
- (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 **12.12.2021**;
- (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 installation 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 **12.9.2021**;
- (h) in relation to (g) above, the implementation of the fire service installation 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 **12.12.2021**;
- (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
- (j) 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 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(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been

given 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 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 received on 13.1.2021
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	Further information (FI) received on 4.3.2021
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	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  
MARCH 2021**