

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/298

<u>Applicant</u>	: R-riches Property Consultants Limited
<u>Site</u>	: Lot 1284 RP (Part) in D.D. 114, Shek Kong, Yuen Long
<u>Site Area</u>	: About 754m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Temporary Shop and Services (Motor-vehicle Showroom) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (motor-vehicle showroom) for a period of 5 years (**Plan A-1**). The Site falls within an area zoned “V” on the approved Shek Kong OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without planning permission.
- 1.2 According to the applicant, the applied development comprises three 1 to 2-storey (of about 2.8m-7m high) structures with a total floor area of about 213m² for motor-vehicle showroom, ancillary office and fire service water tank uses (**Drawing A-1**). Three parking spaces for private cars are provided on-site. The operation hours are 9:00a.m. to 6:00p.m. daily and the Site is directly accessible from Kam Sheung Road. To support the application, the applicant has submitted a layout plan (**Drawing A-1**).
- 1.3 The Site is subject to a previous application (No. A/YL-SK/254) submitted by the

same applicant for proposed temporary shop and services (domestic goods retail shop) for a period of 5 years (**Plan A-1**), which was approved by the Rural and New Town Planning Committee (the Committee) on 17.5.2019. Approval conditions in relation to submission of fire service installations (FSIs) proposal and drainage proposal have been complied with.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on **(Appendix I)**
19.1.2021
 - (b) Further Information (FI) received on 24.2.2021 **(Appendix Ia)**
(exempted from publication)
 - (c) FI received on 3.3.2021 **(Appendix Ib)**
(exempted from publication)

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 summarized as follows:

- (a) the applied motor-vehicle showroom is intended to serve the nearby local community. The application is on a temporary basis and will not frustrate the long-term planning intention of “V” zone. The Site is the subject of a previously approved application for shop and service use (domestic goods retail shop) (No. A/YL-SK/254) (**Plan A-1**), and approval of the current application will not set an undesirable precedent for similar use within the same “V” zone;
- (b) in terms of the showroom operation, a maximum of 20 vehicles will be displayed at the Site. It is estimated that there will be a maximum of about 10 visitors per day and about 6 members of staff on the Site. Advanced booking is required for visitors to access the Site and use the parking spaces. No direct purchase of vehicle would be carried out at the Site and customers will collect purchased vehicle elsewhere. In addition, no car beauty, washing, cleansing, paint-spraying, repairing or other workshop activities are carried at the Site;
- (c) sufficient manoeuvring space are provided within the Site to ensure no vehicle queuing and turning back outside the Site. No light, medium and heavy goods vehicles exceeding 5.5 tonnes, including tractor/trailer is allowed to enter/park at the Site; and
- (d) the applied use will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. There is one existing mature tree the on-site, which will be preserved. Whilst drainage and fire service installations (FSIs) proposals will be provided after the grant of planning approval, the applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and

‘Professional Environmental Consultative Committee Practice Notes’ issued by the Environmental Protection Department (EPD).

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee by registered post. 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

- 5.1 The Site is the subject of a previous application No. A/YL-SK/254 submitted by the current applicant for proposed temporary shop and services (domestic goods retail shop) for a period of 5 years, which was approved by the Committee in 2019. Details of the previous application are summarised in **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 The above application was approved by the Committee on 17.5.2019 mainly on the considerations that the development would not jeopardise the long-term planning intention of the “V” zone; it was not incompatible with the surrounding environment; it would unlikely generate significant environmental nuisance; relevant Government departments had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. Approval conditions in relation to submission of FSIs proposal and drainage proposal have been complied with.

6. Similar Applications

- 6.1 There are three applications (Nos. A/YL-SK/204, 234 and 284) for similar shop and services uses within the same “V” zone. Details of these similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 The above three applications for temporary shop and services uses (including car audio shops and motor-vehicle showroom) all for a period of 3 years were approved with conditions by the Committee between 2014 and 2020 on the similar considerations that the development would not jeopardise the long-term planning intention of the “V” zone; it was not incompatible with the surrounding environment; it would unlikely generate significant environmental nuisance;

relevant Government departments had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval of application No. A/YL-SK/234 was revoked on 6.9.2020 due to non-compliance with approval conditions in relation to the implementation of FSIs and tree preservation 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) currently used for the applied use and fenced off; and
- (b) directly accessible from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character with mainly domestic dwellings/structures intermixed with car repairing workshop and parking of vehicles (Plan A-2):

- (a) to its immediate north is Kam Sheung Road, and to its further northeast and northwest are predominantly domestic structures/dwellings with a car repairing workshop, a carpark and vacant land;
- (b) to its southwest and southeast are some residential structures/dwellings intermixed with fallow farmland, parking of vehicles and vacant/unused land.

8. Planning Intention

The planning intention of the “V” zone is primarily to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the “V” zone is primarily intended for development of Small Houses by indigenous villagers, it is also intended to concentrate village type development within the “V” 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 New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to 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 Old Schedule Agricultural Lots 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;
- (b) should planning approval be given to the 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 applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fees, as may be imposed by LandsD; and
- (c) there is no Small House application approved or currently under processing at the Site.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) having regard to the FI (**Appendix Ib**), he has no comment on the application from traffic engineering perspective;
- (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; and
- (c) the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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 for any access connecting the Site and Kam Sheung Road; and

- (b) adequate drainage measures should be provided at the Site to prevent surface water flowing from the Site to 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 environmental complaint in relation to the Site received by DEP in the past 3 years.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) having regard to the FI (**Appendix Ia**), he has no objection to the application from the landscape planning perspective;
- (b) based on aerial photo of 2020, the Site is situated in an area of rural inland plains landscape character comprising scattered tree groups, farmland and village houses. The applied use is not incompatible to the surrounding environment;
- (c) with reference to his site record dated 17.2.2021, the Site is hard paved and in operation. One mature existing tree i.e. *Ficus microcarpa* (細葉榕) (**Plans A-2 and A-4**) with 1.2m DBH and 14m spread in fair condition is found along the western boundary; and
- (d) all structures of the applied development are located outside the tree crown of the mature existing tree. Given that the structures of the applied development are not in conflict with the existing tree, significant adverse impact on the existing landscape resources arising from the applied development is not anticipated.

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 applied development from public drainage point of view; and

- (b) should the application be approved, 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.

Fire Safety

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

- (a) he has no objection in principle to the application subject to FSIs being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should also be advised on the following points:
 - (i) the layout plan should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority respectively.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) there is no record of approval by the Building Authority for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are unauthorised building works (UBW) under BO and should not be designated for any applied use under the application. The granting of planning approval should not be constructed as an acceptance of any existing building works or UBW on the Site under BO; and
- (b) his detailed comments are at **Appendix V**.

District Officer's Comment

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 comment on or objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 26.1.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period, two public comments (**Appendix IV**) was received from individuals objecting to the application that the applied development would result in environmental and fire safety problems thereby affecting the safety and living environment of the villagers; and that the applied use is not in line with the planning intention of “V” zone to serve the need of local community.

11. Planning Considerations and Assessment

11.1 The application is for temporary shop and services (motor-vehicle showroom) for a period of 5 years at the Site zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). The “V” zone is primarily intended to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the zone is primarily intended for development of Small House development by indigenous villagers. The applied use is not entirely in line with the planning intention of the “V” zone, and DLO/YL of LandsD advises that there is no Small House application approved or currently under processing at the Site. Approval of the application on a temporary basis for a period of 5 years would not frustrate the long term planning intention of the “V” zone.

11.2 According to the applicant, the applied use is intended to serve the nearby local community. The applied development comprising three 1 to 2 storey structures with a total floor area of 213m² is considered not incompatible with the surrounding land uses which are predominantly rural in character and mainly occupied by domestic dwellings/structures (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no adverse comment on/ no objection to the application from traffic, environmental, drainage, landscape and fire safety aspects. It is anticipated that the applied use would not generate significant adverse traffic, environmental, drainage, landscape and fire safety impacts on the surrounding areas. To minimize the possible environmental nuisance generated by the applied

use, approval conditions restricting the operation hours and types of vehicles within the Site are recommended in paragraphs 12.2 (a) to (b) below. Moreover, the technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2 (c) to (i) below. Besides, the applicant will be advised to observe the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact.

- 11.3 The Site is the subject of a previous application (No. A/YL-SK/254) submitted by the same applicant for proposed temporary shop and services (domestic goods retail shop) for a period of 5 years and approved by the Committee in 2019. Besides, there are three similar applications for various temporary shop and services uses within the same “V” zone, which were approved by the Committee between 2014 and 2020. The Committee’s considerations on these four applications as stated in paragraphs 5 and 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 There are two objecting public comments on the application as stated in paragraph 10. The planning assessment and departmental comments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 12 and having taken into account the public comments 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 5 years until 12.3.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.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 existing tree within the Site shall be maintained satisfactorily at all times during the planning approval period;

- (e) the submission of 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 12.9.2021;
- (f) in relation to (e) above, the implementation of fire service installations 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;
- (g) the submission of 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;
- (h) in relation to (g) above, the implementation of 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;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (i) 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
- (k) if any of the above planning conditions (e), (f), (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 attached 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 applied development is not in line with the planning intention of the "V" zone which is primarily to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. No strong planning 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

Appendix I	Application Form with attachments received on 19.1.2021
Appendix Ia	Further Information (FI) received on 24.2.2021
Appendix Ib	FI received on 3.3.2021
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**