

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

**APPLICATION NO. A/YL-SK/303**

<b><u>Applicant</u></b>	: Ka Lok Hong Licensing Consultant Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lot 847 RP (Part) in D.D. 114, Shek Kong, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 291 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 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 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, ‘Shop and Services’ is a Column 2 use within “R(D)” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied with construction machinery and materials.
- 1.2 According to the applicant, the proposed development will consist of three 1 to 2-storey structures with building heights of about 3.5m to 7m and a total non-domestic floor area of about 233m<sup>2</sup>, which will be used for real estate agency, ancillary office and rain shelter (canopy) uses (**Drawing A-1**). The operation hours will be 9:00a.m. to 6:00p.m. daily. Two private car parking spaces will be provided on-site. The Site is accessible via a local access road branching off from Kam Sheung Road (**Plan A-2**). The layout plan and floor plan submitted by the applicant are at **Drawings A-1** and **A-2**.
- 1.3 In support of the application, the applicant has submitted the following

documents:

- (a) Application Form with Attachment received on 17.3.2021 **(Appendix I)**
- (b) Further information (FI) received on 7.5.2021 (*exempted from publication*) **(Appendix Ia)**

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

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

- (a) the proposed real estate agency is intended to serve the nearby locals living in Mun Hau Tsai, Sheung Tsuen San Tsuen and Tai Ling Tsuen etc. The application is on a temporary basis and will not jeopardise the long-term planning intention of the “R(D)” zone;
- (b) the estimated maximum number of visitors would be about 15 per day, and there would be eight members of staff working on-site. Two private cars parking spaces would be provided for the staff and visitors. Sufficient maneuvering space is provided within the Site to ensure no queueing and turning back outside the Site and onto public road. Moreover, no goods vehicles will be allowed to enter/exit the Site. As the traffic generation will be minimal, no adverse traffic impact is envisaged due to the proposed use; and
- (c) the proposed development will not create significant adverse environmental, landscape and drainage impact. Adequate mitigation measures on drainage and fire services aspects will be provided upon approval of the application. The applicant would also strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and ‘Professional Persons Environmental Consultative Committee Practice Notes’ to minimise the environmental and sewerage impacts of the proposed development.

## **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” Requirements under Sections 12A and 16 of the Town Planning Ordinance (the Ordinance) (TPB PG-No. 31A) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee. 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 Applications**

- 5.1 The Site is the subject of four previous applications (Nos. A/YL-SK/114, 125, 130 and 132) for temporary car park / open storage of vehicles uses. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

### One approved application

- 5.2 Application No. A/YL-SK/114 for temporary car park for a period of 3 years covering a larger site area was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 27.6.2003 mainly on the considerations that the development would not frustrate the long-term planning intention of the “R(D)” zone; it was compatible with and functional in supporting the local village development in the area; 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 the application was revoked on 27.6.2004 due to non-compliance with approval conditions in relation to the submission and implementation of landscape and drainage proposals.

### Three rejected applications

- 5.3 Application No. A/YL-SK/125, 130 and 132 for temporary open storage of vehicles / car park uses all for a period of 3 years were rejected by the Committee on 19.11.2004 and 23.12.2005, and by the Board on review on 16.3.2007 respectively. These three applications occupying larger site areas were rejected mainly on the grounds that the applied uses were not in line with the planning intention of the “R(D)” zone; they did not comply with the relevant Town Planning Board Guidelines No. 13C/D; there was insufficient information in the submissions to demonstrate that the developments would not have adverse impacts on the surrounding areas; and approval of the applications would set undesirable precedents for similar uses to proliferate into the “R(D)” zone.

## **6. Similar Applications**

- 6.1 There are five similar applications (Nos. A/YL-SK/248, 251, 270, 271 and 296) for various temporary shop and services uses within the same “R(D)” zone on the OZP, which were approved by the Committee between 2019 and 2021. Details of these applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 The above five applications for various temporary shop and services uses, 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) currently occupied with construction machinery and materials; and
- (b) accessible via a local access road branching off from Kam Sheung Road.

**7.2 The surrounding areas are predominantly rural in character and intermixed with domestic dwellings/structures, shop and services, open storage yards and workshops, and religious institutes/structures (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, a few pieces of active/fallow farmland and unused land in “Village Type Development” (“V”) zone;
- (b) to its east are a car repair workshop, a bamboo scaffolding site and a car trading site;
- (c) to its south are several domestic dwellings/structures, a Buddhist altar, and a car repair workshop; and
- (d) to its west are an open storage yard of vehicles, a restaurant, two real estate agencies (one of which approved under Application No. A/YL-SK/270), an eating place with shop for farm/bakery products and houseware (approved under Application No. A/YL-SK/296), 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 applied 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;
- (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 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 environmental complaint in relation to the Site received by him in the past three years.

### **Drainage**

9.1.5 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 planning point of view, conditions should be stipulated in the approval letter requiring 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**

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

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**

9.1.7 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 location 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, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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

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

he has not received any comment 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. Their detailed comments, if any, are at **Appendix IV**:

- (a) Chief Town Planner/Urban Design & Landscape, PlanD (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 26.3.2021, the application was published for public inspection. During the three-week statutory publication period, no public comment was received.

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

- 11.1 The application is for proposed temporary shop and services use 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 use is 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 application, the proposed real estate agency is intended to serve the nearby locals. The proposed use comprising three 1 to 2-storey structures with a total floor area of 233m<sup>2</sup> is considered not incompatible with the surrounding areas which are predominantly rural in character and intermixed with domestic dwellings/structures and shop and services (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD, and CTP/UD&L of PlanD have no adverse comment on/no objection to the application from traffic,

environmental, drainage and landscape perspectives. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and landscape 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 The Site is the subject of four previous applications as detailed in paragraph 5. However, the proposed uses for these previous applications (i.e. temporary car park / open storage of vehicles uses) are different and therefore irrelevant as compared with the current application.
- 11.4 There are five similar applications for various temporary shop and services uses within the same "R(D)" zone, which were approved by the Committee between 2019 and 2021. 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.
- 11.5 There is no public comment received during the statutory publication period.

## **12. Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11, 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 14.5.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### **Approval conditions**

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance and its subsidiary regulations are allowed to enter/be parked on the site at all times 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 14.11.2021;

- (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 14.2.2022;
- (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 14.11.2021;
- (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 14.2.2022;
- (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 17.3.2021
<b>Appendix Ia</b>	Further information (FI) received on 7.5.2021
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Floor 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  
MAY 2021**