

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

**APPLICATION NO. A/YL-SK/319**

<b><u>Applicant</u></b>	: Wonderland International Company Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lot 1370 RP (Part) in D.D. 112, Shui Tsan Tin, Shek Kong, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 171 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>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<b><u>Application</u></b>	: Proposed Temporary Shop and Services Use for a Period of 5 Years and Land Filling

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services use for a period of 5 years at the application site (the Site) (**Plan A-1**). The applicant intends to use the Site for a real estate agency. In addition, the applicant also applies for land filling of the whole Site with concrete by not more than 0.2 m, which is required mainly for the proposed structures and circulation/parking spaces (**Drawing A-2**). The Site falls within an area zoned “V” on the approved Shek Kong OZP. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, and planning permission from the Town Planning Board (the Board) is required for both the proposed use and filling of land. The Site is hard-paved and occupied with two container-converted structures (**Plans A-3 and A-4**).
- 1.2 According to the applicant, the Site will consist of two temporary 1-storey structures with a height of about 2.8m and a total floor area of 30m<sup>2</sup>, which will be used for shop and services uses (**Drawing A-1**). Two car parking spaces for private vehicles will be provided on-site for staff and visitors. The Site is accessible via a local access road branching off from Kam Sheung Road. The operation hours will be from 9:00a.m. to 7:00p.m. Mondays to Sundays, including

public holidays. The layout plan, paving ratio plan and swept path plan submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application Form with Attachment received on (Appendix I) 10.11.2021
- (b) Further information (FI) received on 20.12.2021 (Appendix Ia) *(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 and Ia**, and are briefly summarized as follows:

- (a) the proposed real estate agency would serve the needs of nearby villagers of Shui Tsan Tin;
- (b) the proposed use is temporary in nature that would not jeopardize the planning intention of the “V” zone in the long term and is not incompatible with the surrounding environment;
- (c) the proposed use would not generate significant adverse traffic, environmental, landscape and drainage impacts to the surrounding environment. Adequate mitigation measures, i.e. submission of drainage, fire safety and landscape proposals, will be provided if the application is approved; and
- (d) the applicant would liaise with respective land owners and government departments regarding the right of way of access after planning approval is obtained.

## **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 and sending notice to Pat Heung Rural Committee by local 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**

There is no previous application in respect of the Site.

**6. Similar Applications**

- 6.1 There are two applications Nos. A/YL-SK/252 and 292 for the shop and services uses (real estate agency and shop for selling solar power system with land filling respectively) within the same and adjoining “V” zones. Details of these similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-SK/252 was approved with conditions by the Committee for a period of 3 years on 3.5.2019 on the considerations that the real estate agency would serve the needs of local residents; temporary approval of the application would not frustrate the long-term planning intention of the “V” zone and no Small House applications approved or under processing at the site; the development was considered not incompatible with the surrounding land uses; and would unlikely result in significant environmental nuisance.
- 6.3 Application No. A/YL-SK/292 was approved with conditions by the Committee for a period of 5 years on 4.12.2020 on the similar considerations as stated in paragraph 6.2 above.

**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, which is hard-paved and occupied by two container-converted structures, is accessible via a local access road branching off from Kam Sheung Road.
- 7.2 The surrounding areas are predominantly rural in character intermixed mostly with domestic dwellings/structures, fallow agricultural land and vacant land (**Plan A-2**):
- (a) to its south and west are domestic clusters including Green Field Villa, Yue Ming Rich Garden and some domestic dwellings/structures and unused land;
  - (b) to its north and northwest are a track connecting a local access road branching off from Kam Sheung Road, some domestic dwellings/structures intermixed with vacant land and fallow agricultural land; and
  - (c) to its east are some domestic dwellings/structures, fallow agricultural land and vacant 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 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 Houses. 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 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 application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site (except the existing structure for domestic purpose), 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) the Site is connected to the public road network via a section of a local access road which is not managed by his 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 minimize any potential environmental nuisances; and
- (b) there is no environmental complaint in relation to the Site received 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; 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**

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

- (a) before any new building works (including containers / open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are

unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO;

- (b) for 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 BO; and
- (c) his detailed comments are at **Appendix IV**.

### **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 fire service installations (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 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 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); and
- (d) Commissioner of Police (C of P).

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

On 19.11.2021, the application was published for public inspection. During the first three-week statutory publication period, a total of 71 public comments were received, 69 of which are in a standard letter format from one Indigenous Inhabitant Representative and one Resident Representative of Shui Tsan Tin Tsuen and local villagers (**Appendix III-a**), one comment from a Yuen Long District Council Member (**Appendix III-b**) and one from an individual (**Appendix III-c**). They object to the application mainly on the grounds that the Site is a piece of farmland which should be used for agricultural activities, and the proposed development would cause adverse impact on traffic, environmental, security and fire safety aspects.

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

- 11.1 The application is for proposed temporary shop and services for a period of 5 years (**Plan A-1**), with filling of land at the entire Site by not more than 0.2m for the proposed structures and circulation/parking spaces (**Drawing A-2**). The applicant intends to operate a real estate agency on the Site zoned “V” on the OZP. 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 zone is primarily intended for development of Small House development by indigenous villagers. Although the proposed use is not entirely in line with the planning intention of the “V” zone, 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 would not frustrate the long term planning intention of the “V” zone.
- 11.2 According to the applicant, the proposed shop and services use as real estate agency is intended to serve the nearby local community. The proposed development comprising two 1-storey structures with a total floor area of 30m<sup>2</sup> is considered not incompatible with the surrounding land uses which are predominantly rural in character intermixed mainly with domestic dwellings/structures, fallow agricultural land and vacant land (**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. It is anticipated that the proposed 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 proposed use, an approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. The technical requirements of C for T, D of FS and CE/MN of DSD could be addressed by appropriate approval conditions in paragraphs 12.2 (b) to (g) 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 There are two similar applications for shop and services uses within the same and adjoining “V” zones, which were approved by the Committee between 2019 and 2020. The Committee’s considerations on these two 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 71 public comments received during the statutory publication period, the departmental comments and the planning considerations and 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 in paragraph 10 above, 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 24.12.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no operation between 7:00 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) 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 24.6.2022;
- (d) in relation to (c) 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 24.9.2022;
- (e) 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 24.6.2022;
- (f) in relation to (e) 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 24.9.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;



- (h) if any of the above planning conditions (a), (b) or (g) 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
- (i) if any of the above planning conditions (c), (d), (e) or (f) 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 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 "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**

<b>Appendix I</b>	Application Form received on 10.11.2021
<b>Appendix Ia</b>	FI received on 20.12.2021
<b>Appendix II</b>	Similar Applications
<b>Appendices III-a to III-c</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Paving Ratio Plan
<b>Drawing A-3</b>	Swept Path 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  
DECEMBER 2021**