

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

**APPLICATION NO. A/YL-SK/320**

<b><u>Applicant</u></b>	Mr. Cheung Chi Yuen Danny represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	Lot 878 (Part) in D.D. 114 and Adjoining Government Land (GL), Pat Heung, Yuen Long, New Territories
<b><u>Site Area</u></b>	About 360m <sup>2</sup> (including GL of about 50m <sup>2</sup> or 13.9%)
<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 (Shop for Selling Vehicle Spare Parts) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (shop for selling vehicle spare parts) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “R(D)” on the approved Shek Kong OZP No. S/YL-SK/9. 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 hard-paved and occupied by a two-storey structure mainly for storage use at present.
- 1.2 According to the applicant, the site area is about 360m<sup>2</sup>. One 2-storey structure (not exceeding 6m) with a total non-domestic floor area of not more than 185m<sup>2</sup> is erected at the Site for the proposed shop and services use (**Drawing A-1**), which is intended to serve the residents in the neighbourhood. The Site is accessible from Kam Sheung Road via an existing run-in/out of the adjoining site. The run-in/out is shared with another temporary shop and services use approved by the Committee in 2019 (Application No.

A/YL-SK/248) (**Plan A-2**). The applicant claimed that he has the right-of-way to Kam Sheung Road through the adjoining site (**Appendix Ia**). Two private car parking spaces will be provided within the Site. The proposed opening time is 9:00 a.m. to 7:00 p.m. from Mondays to Sundays, including public holidays. The layout plan and vehicular access 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 attachments received on (**Appendix I**) 11.11.2021
- (b) Further Information (FI) dated 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 use is on a temporary basis for a period of 3 years and therefore will not jeopardize the long-term planning intention.
- (b) the proposed development is adjoining another shop and is not incompatible with the surrounding rural environment. Similar applications for ‘Shop and Services’ use within the same “R(D)” zone in the vicinity have been approved by the Board.
- (c) there is only minimal traffic impact arising from the proposed development. The estimated traffic generation by the proposed development (i.e. 0.3 pcu/hr on average and 1 pcu/hr during peak hours) is considered insignificant. Besides, the applicant has obtained the right of way from the applicant of Application No. A/YL-SK/248 so that he can freely pass through the adjoining site to and from Kam Sheung Road; and
- (d) there is no adverse environmental impact, and the drainage impact is insignificant. With the existing drainage facilities, it is anticipated that no adverse drainage impact will be generated by 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 and sending notice to Pat Heung Rural Committee by local registered post. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

#### 4. **Background**

The Site is not subject to any active planning enforcement case.

#### 5. **Previous Applications**

- 5.1 The Site is subject to two previous applications (Nos. A/YL-SK/248 and 270) for ‘shop and services’ uses (both submitted by the same applicant of the current application) approved by the Committee in 2019. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-SK/248 for temporary shop and services (temporary retail shop for hardware groceries), covering a minor portion at the entrance of the Site (about 3.9%) (**Plan A-2**), was approved with conditions by the Committee for a period of 3 years on 17.5.2019 on the considerations that the development would not jeopardize the long-term planning intention of the “R(D)” zone; it was not incompatible with the surrounding environment; and government departments consulted generally had no adverse comment on the application.
- 5.3 Application No. A/YL-SK/270 for temporary shop and services (real estate agency), largely overlapped with the Site (about 280m<sup>2</sup>) (**Plan A-2**), was approved with conditions by the Committee on 13.12.2019 on similar considerations as stated in paragraph 5.2 above. The planning approval was revoked on 13.11.2021 due to non-compliance with the approval condition of the implementation of fire service installations (FSIs) proposal.

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

- 6.1 There are four similar applications (Nos. A/YL-SK/251, 271, 296 and 303) for various temporary shop and services uses within the same “R(D)” zone on the OZP, which were approved by the Committee between 2020 and 2021. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 The above four 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 as stated in paragraph 5.2 above.

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

- 7.1 The Site is:
- (a) hard-paved and occupied by a 2-storey structure; and

- (b) accessible from Kam Sheung Road via an existing run-in/out of the adjoining site for the approved temporary retail shop for hardware groceries (Application No. A/YL-SK/248).

7.2 The surrounding areas are predominantly rural in character intermixed with some domestic dwellings/structures, active/fallow farmland, open storage/storage yards and vacant/unused land:

- (a) to its north is Kam Sheung Road, and to its further north are some domestic structures intermixed with active/fallow farmland and vacant land;
- (b) to its east are some domestic structures, vacant land, a restaurant, an open storage of vehicles and a temporary eating place with retail shop approved under Application No. A/YL-SK/296;
- (c) to its south are some domestic structures and a nullah, and to its further south are a few domestic structures intermixed with a vehicle repair workshop and a metal workshop; and
- (d) to its west are a temporary retail shop for hardware groceries approved under Application No. A/YL-SK/248, some domestic structures and a restaurant.

## **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 summarized as follows:

### **Land Administration**

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

- (a) the Site comprises GL and 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;
- (b) no permission is given for occupation of GL (about 50m<sup>2</sup> subject to verification) included in the Site. Attention is drawn

to the fact that any occupation of GL without government's prior approval is not allowed;

- (c) his recent site inspection found that an existing structure partly included in the proposal, located within the Site, was suspected of being used for domestic purposes. According to the established practice, application for Short Term Waiver of structures for domestic / residential uses on private agricultural land will not be entertained. Hence, even if the Board approves the subject planning application, his office will not consider approving / regularizing any structure(s) erected / to be erected on the lots for domestic / residential uses;
- (d) there are existing structures extending to cover most of the remaining part of Lot No. 878 in D.D. 114 (which is outside the Site) and the adjoining GL; and
- (e) 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 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;
- (b) should the application be approved, approval condition on 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 Transport Department (TD). 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 is not and will not be responsible for the maintenance of any access connecting the Site with Kam Sheung Road; and
- (b) adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road 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 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 use on the understanding that the applicant would implement the same drainage facilities as those proposed under the previous planning Application No. A/YL-SK/270; and
- (b) should the application be approved, approval conditions should be imposed requiring the applicant to maintain the drainage facilities implemented under Application No. A/YL-SK/270 and to submit records of the existing drainage facilities on site 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) are to be carried out on the Site, prior approval and consent of the Buildings Authority should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person

should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO);

- (b) for UBW erected on leased land, enforcement action may be taken by the 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 V**.

### **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), 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 comments from locals upon close of consultation and he has no particular comments on the application.

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

- (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); 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 19 public comments were received, 16 of which are in the form of standard letter from two Indigenous Inhabitant Representatives, Resident Representative of Pat Heung Sheung Tsuen as well as local villagers (**Appendix IV-a**), one comment from a Yuen Long District Council Member (**Appendix IV-b**) and two comments from individuals (**Appendix IV-c**). They object to the application mainly on the grounds that 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 (shop for selling vehicle spare parts) at the Site for a period of 3 years. One 2-storey structure with a total non-domestic floor area of not more than 185m<sup>2</sup> (**Drawing A-1**) is erected at the Site for the proposed use to serve the residents in the neighbourhood. The Site falls within an area zoned “R(D)” on the approved Shek Kong OZP (**Plan A-1**). While the proposed use is not entirely in line with the planning intention of “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, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.
- 11.2 The proposed development is considered not incompatible with the surrounding land uses which are predominantly rural in character intermixed with some domestic dwellings/structures, active/fallow farmland, open storage and vacant/unused 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 mitigate any potential environmental impacts on the surrounding areas, approval condition restricting the operation hours as proposed by the applicant 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 approval conditions in paragraphs 12.2 (b) to (g). 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/270) for temporary shop and services (real estate agency) which was approved with conditions by the Committee in 2019. The planning approval (No.



A/YL-SK/270) was revoked on 13.11.2021 due to non-compliance with approval condition on the implementation of the FSIs proposal at the Site. The current application is submitted by the same applicant with different shop and services use, site layout and development parameters. Nevertheless, the applicant has pledged to comply with approval conditions if the application is approved. Moreover, relevant government departments, including D of FS, have no objection to the current application. Sympathetic consideration may therefore be given. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. Should the application be approved, the applicant will be advised that should it fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further applications.

- 11.4 In addition, there are four similar applications for temporary shop and services uses within the same “R(D)” zone, which were approved with conditions by the Committee between 2020 and 2021. The Committee’s considerations on these applications as stated in paragraph 6 above are generally applicable to the current application, and approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Regarding the 19 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 3 years until 24.12.2024. 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) 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 proposal for fire service installations and water supplies for fire-fighting within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.3.2022;
- (e) in relation to (d) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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;
- (f) the submission of a condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.3.2022;
- (g) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (b), (c) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice; and
- (i) if any of the above planning conditions (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 V**.

- 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 11.11.2021
<b>Appendix Ia</b>	FI dated 20.12.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendices IV-a to IV-c</b>	Public Comments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Vehicular Access Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2021**