

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

**APPLICATION NO. A/YL-SK/348**

<b><u>Applicant</u></b>	:	WONG Kin Wai represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lot 288 RP (Part) in D.D. 112, Kam Sheung Road, Shek Kong, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	405m <sup>2</sup> (about)
<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>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services with Ancillary Facilities for a Period of 3 Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services with ancillary facilities for a period of 3 years and associated filling of land. The applicant intends to use the Site for a real estate agency. In addition, the applicant also applies for regularisation of land filling of the whole Site with concrete by not more than 0.1 m, which is required mainly for the proposed structures, parking spaces and circulation area (**Drawing A-2**). The Site falls within an area zoned “AGR” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). Filling of land in “AGR” zone also requires planning permission from the Board. The Site is paved and vacant, erected with a few temporary structures (**Plans A-3 to A-4b**).
- 1.2 According to the applicant, three single-storey structures (with building height of about 2.5m to 4m) and a total floor area of about 149m<sup>2</sup> are proposed on the Site for shop and services, office, utilities room and portable toilet uses. A total of 3 private car parking spaces are proposed within the Site (**Drawing A-1**). The operation hours are from 9:00 a.m. to 7:00 p.m. daily, including public holidays. The Site is accessible via a small strip of government land connecting to Kam

Sheung Road to the south. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1 to A-2**.

- 1.3 The Site is the subject of 3 previous applications (No. A/YL-SK/202, 216 and 318) for the same shop and services use/ and filling of land, which were approved by the Rural and New Town Planning Committee (the Committee) on 17.10.2014, 14.9.2016 and 26.11.2021 respectively. The last planning permission (No. A/YL-SK/318) was revoked on 26.5.2023 due to non-compliance of approval conditions (**Plan A-1**). Details of the previous applications are given in paragraph 5 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on (**Appendix I**) 19.6.2023
  - (b) Further Information (FI) received on 9.10.2023\* (**Appendix Ia**)
  - (c) FI received on 1.12.2023\* (**Appendix Ib**)  
*\*accepted and exempted from publication and recounting requirements*
- 1.5 At the request of the applicant, the Committee on 11.8.2023 agreed to defer making a decision on the application.

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

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib** and summarized below:

- (a) the proposed use is to provide estate agency services. It will benefit the nearby residents and business operators by catering their demand for such use;
- (b) the Site is subject to previous applications for the same use that had been approved by the Committee. Comparing with previous application (no. A/YL-SK/318), the major development parameters of the current application are the same;
- (c) the proposed use is temporary in nature that would not jeopardize the planning intention of the “AGR” zone in the long term. The applicant will reinstate the Site to an amenity area after the planning approval period; and
- (d) the proposed use would not generate significant adverse environmental and drainage impacts to the surrounding environment. Adequate mitigation measures, i.e. submission of run-in/out, fire services installations proposals and as-built drainage plan will be provided if the application is approved.

### 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 (TPB PG-No. 31A) by posting site notice and sending notification letter to relevant owners. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

The Site is not subject to any active enforcement action.

### 5. **Previous Applications**

5.1 The Site is the subject of 3 previous applications (No. A/YL-SK/202, 216 and 318) for the same shop and services use/ and filling of land. Details of the previous applications are summarized at **Appendix II** and the location is shown on **Plan A-1**.

5.2 All applications were approved by the Committee on 17.10.2014, 14.9.2016 and 26.11.2021 respectively for a period of 3 years on the considerations that the development would provide real estate agency service to serve the needs of the villagers and local residents; temporary approval of the application would not frustrate the long term planning intention of the “AGR” zone; the development was considered not incompatible with the surrounding land uses; and would unlikely result in significant environmental nuisance to the nearby residential structures/ dwellings. However, the application No. A/YL-SK/271 was revoked on 17.4.2015 due to non-compliance with approval conditions on submission and implementation of relevant requirements, whereas A/YL-SK/318 was revoked on 26.5.2023 due to non-compliance with approval conditions on submission and implementation of a run-in/out proposal and implementation of the fire service installations proposal. Details of the previous applications are summarized at **Appendix II** and the location is shown on **Plan A-1**.

### 6. **Similar Application**

There is no similar application within the same “AGR” zone in the past 5 years.

### 7. **The Site and Its Surrounding Areas (Plans A-2 to A-4b)**

7.1 The Site is:

- (a) hard-paved and vacant, erected with a few temporary structures; and
- (b) accessible via a small strip of land connecting to Kam Sheung Road to the south.

- 7.2 The surrounding areas are predominately rural in character and intermixed with residential structures/ dwellings, agricultural land, plant nurseries, vacant/ unused land and a few warehouse/ open storage yards (**Plans A-2 and A-3**).

## **8. Planning Intention**

- 8.1 The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.
- 9.2 The following government departments do not support/ have adverse comments on the application:

### **Land Administration**

- 9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) He has adverse comment on the application.
  - (b) 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.
  - (c) He has grave concerns given that there are unauthorised building works (UBW) and/or uses on the concerned lot which is already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.
  - (d) Should planning approval be given to the application, the lot owner(s) will need to apply to LandsD 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

regularisation or erection of temporary structure(s) will be considered. Application(s) 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(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 fees, as may be imposed by LandsD.

### **Agriculture and Nature Conservation**

#### **9.2.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

- (a) He does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation.
- (b) The Site falls within the “AGR” zone and is occupied by structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
- (c) No comment on the application from nature conservation perspective.

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

The application was published for public inspection on 27.6.2023. During the statutory public inspection period, one public comment was received from an individual (**Appendix V-1**) raising concern that previous approvals were revoked due to non-compliance of approval conditions.

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

- 11.1 The application is for proposed temporary shop and services with ancillary facilities for a period of 3 years and associated filling of land. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not in line with the planning intention of the “AGR” zone. DAFC does not support the application as the Site has rehabilitation potential. However, the proposed real estate agency under application can serve nearby residents and business operators. Taking into account the planning assessments below, the proposed use on a temporary basis of 3 years could be tolerated.
- 11.2 Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. The Site had already been paved and the filling of land application is to

regularize the existing site condition. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and DEP have no objection to the filling of land from drainage and environmental perspectives. An approval condition requiring reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.

- 11.3 The Chief Town Planner/Urban Design and Landscape of the Planning Department has no objection to the application from landscape planning perspective and advises that there has been no significant change to the landscape character of the surrounding area since the last application was approved. The proposed use is considered not incompatible with the surrounding land uses intermixed with residential structures/ dwellings, agricultural land, plant nurseries, vacant/ unused land and a few warehouse/ open storage yards.
- 11.4 Relevant government departments consulted, including C for T, D of FS, CE/MN of DSD and DEP have no objection to/ no adverse comment on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise the possible environmental nuisance generated by the proposed use. DLO/YL, LandsD has adverse comment as there are UBW and/or uses on the concerned lot which is already subject to lease enforcement actions according to case priority. In this regard, the applicant states that he will apply for Short Term Waiver with LandsD for erection of structure.
- 11.5 The Site is involved in 3 previous applications (No. A/YL-SK/202, 216 and 318) for the same shop and services use/ and filling of land approved with conditions by the Committee in 2014, 2016 and 2021 respectively as detailed in paragraph 5 above. Although the last planning permission was revoked due to non-compliance of approval conditions, the applicant has submitted run-in/out, FSIs proposals and as-built drainage plan in the current application, and relevant departments have no objection to the proposals. The Committee’s considerations as stated in paragraph 5 are generally applicable to the current application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.6 Regarding the one public comment 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 comment mentioned in paragraph 10, the Planning Department considers that the proposed use could be tolerated for a period of 3 years.

- 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 8.12.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the implementation of the fire service installations 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 **8.9.2024**;
- (b) the submission of a condition record of the existing drainage facilities implemented on the Site 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 **8.3.2024**;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) if the above planning condition (c) 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;
- (e) if any of the above planning condition (a) or (b) 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; and
- (f) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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 use is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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 with attachments received on 19.6.2023
<b>Appendix Ia</b>	FI received on 9.10.2023
<b>Appendix Ib</b>	FI received on 1.12.2023
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V-1</b>	Public Comment
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Land Filling 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 to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2023**