

RNTPC Paper No. A/YL-SK/382  
For Consideration by the  
Rural and New Town Planning  
Committee on 6.9.2024 20.9.2024

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

**APPLICATION NO. A/YL-SK/382**

<b><u>Applicant</u></b>	:	Power Spread Limited represented by R-riches Property Consultants Limited
<b><u>Sites</u></b>	:	Lots 783, 785 S.A and 785 RP in D.D.114, Sheung Tsuen, Shek Kong, Yuen Long
<b><u>Site Area</u></b>	:	240m <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>	:	“Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	:	Temporary Shop and Services (Real Estate Agency) for a Period of 5 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary shop and services (real estate agency) at the application sites (the Sites) for a period of five years and the associated filling of land. The Sites fall within an area zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’, which is a Column 2 use under the “V” zone, and filling of land require planning permission from the Town Planning Board (the Board). The Sites comprising two portions are currently paved, fenced and occupied with a two-storey container-converted structure at the eastern portion (with an area of about 74m<sup>2</sup>) and two two-storey container-converted structures at the western portion (with an area of about 166m<sup>2</sup>), and used for the applied use without valid planning permission (**Plans A-3 to A-4c**).
- 1.2 According to the applicant, the applied use involves three two-storey structures with building heights of about 6m and a total floor area of about 244m<sup>2</sup> for two real estate agencies (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the entire Sites with concrete of not more than 0.2m in depth to levels ranging from +47.7mPD to +47.9mPD for site formation of structures

**(Drawing A-2).** The operation hours are from 9:00 a.m. to 8:00 p.m. daily, including public holidays. No parking spaces and loading/unloading spaces will be provided on-site. The Sites are accessible via a local track branching off Kam Sheung Road. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1 to A-2**.

1.3 The Sites as a whole are the subject of a previous application No. A/YL-SK/293 submitted by the same applicant approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 4.12.2020 and the planning approval was subsequently revoked on 8.4.2024 (details at paragraph 5 below). Compared with the previously approved application, the total floor area is reduced from about 266m<sup>2</sup> to about 244m<sup>2</sup> and the layout is slightly changed under the current application, whilst all other major development parameters are the same.

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

- (a) Application Form with attachments received on **(Appendix I)**  
12.7.2024
- (b) Further Information (FI) received on 16.8.2024\* **(Appendix Ia)**
- (c) Further Information (FI) received on 28.8.2024\* **(Appendix Ib)**

*\*accepted and exempted from publication and recounting requirements*

1.5 ***In light of ‘gale/storm signal No. 8’ announced by the Government on 5.9.2024, the Committee agreed on 8.9.2024 to defer considering of the application to this meeting.***

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

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

- (a) the Sites are located in an area predominated by residential and commercial developments, and there is high demand for estate agencies in the area. As such, the provision of the applied use could provide convenient services to the local community;
- (b) two estate agencies will be operated at the Sites, i.e. estate agency A with a floor area of about 76m<sup>2</sup> at the eastern portion and estate agency B with a floor area of about 168m<sup>2</sup> at the western portion (**Drawing A-2**). The estimated number of visitors would be not more than 20 per day, and there will be 10 staff at the Sites. Staff and visitors will rely on public transport to travel from/to the Sites;
- (c) the Sites are subject to previous application for the same use that had been approved by the Committee. Comparing with previous application (No. A/YL-SK/293), the

major development parameters of the current application are mostly the same;

- (d) the applied use is considered not incompatible with the surrounding land uses and will not create adverse impact to the surrounding area. Upon approval of the planning application, the applicant will make effort to comply with approval conditions related to fire services and drainage aspects; and
- (e) the applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs) issued by the Environmental Protection Department (EPD) in order to minimise possible environmental impacts to the nearby sensitive receivers.

### 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. 31B) by posting site notices at the Sites 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 Sites are not subject to any active enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

### 5. **Previous Application**

The Sites are involved in a previous application (No. A/YL-SK/293) submitted by the same applicant for the same temporary shop and services for real estate agencies for a period of five years with three two-storey structures with the same site area but a slightly larger floor area and a slightly different layout comparing with the current application. The application was approved with conditions by the Committee on 4.12.2020, mainly on the grounds that the temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions. However, the planning approval was subsequently revoked on 4.8.2024 due to non-compliance with the time-limited approval conditions on the submission of a drainage proposal and the implementation of the drainage and fire service installations (FSIs) proposal. Details of the application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

## 6. **Similar Application**

There is no similar application within the same “V” zone in the vicinity of the Sites in the past 5 years.

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

7.1 The Sites are:

- (a) currently paved, fenced and occupied with a two-storey container-converted structure at the eastern portion and two two-storey container-converted structures at the western portion; and
- (b) accessible via a local track branching off Kam Sheung Road.

7.2 The surrounding areas are rural in character comprising mainly domestic structures, parking of vehicles, open storage yards and storage yards, plant nurseries, fallow agricultural land and vacant/unused land (**Plans A-2 and A-3**).

## 8. **Planning Intention**

The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses (SHs) by indigenous villagers. It is also intended to concentrate village type development within this 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 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 Apart from the government department as set out in paragraphs 9.2 below, other 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 department has 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 comments on the application;

- (b) the Sites comprise Old Schedule Agricultural Lot No. 783, 785 S.A and 785 RP all in D.D.114 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) Lot No. 783 in D.D. 114 is covered by Short Term Waiver (STW) No. 5275 and Lot Nos. 785 S.A and 785 RP both in D.D. 114 are covered by STW No. 5276 with both STWs for the purpose of Temporary Shop and Services (Real Estate Agency); and
- (d) recent site inspection found that the existing structures within the private lots were being used for domestic purposes. The lot owner has to cease the domestic use and rectify the lease breach as soon as possible.

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

The application was published for public inspection on 23.7.2024. During the statutory public inspection period, one public comment was received from an individual raising objection to the application mainly on the grounds that approval conditions of the previous application have not been fulfilled (**Appendix V-1**).

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

- 11.1 The application is for temporary shop and services (real estate agency) for a period of five years and the associated filling of land. 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 SHs by indigenous villagers, and other commercial, community and recreational uses may be permitted on application to the Board. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, it could provide convenient services to the local community and DLO/YL of LandsD advises that there is no SH application approved or under processing at the Sites. It is considered that approval of the application on a temporary basis for a period of five years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 Filling of land within the “V” zone requires planning permission from the Board. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively.
- 11.3 The applied use is of a minor scale with a total floor area of about 244m<sup>2</sup>. It is considered not incompatible with the surrounding land uses which are predominantly rural in character comprising domestic structures, parking of vehicles, open storage and storage yards, plant nurseries, fallow agricultural land

and vacant/unused land (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of the Planning Department has no objection to the application and considers that significant adverse landscape impact arising from the applied use is not anticipated.

- 11.4 DLO/YL of LandsD has concern on the application in view that the existing structures within the private lots being used for domestic purposes. In this regard, the applicant states that no domestic uses will be taking place at the Sites and the staff are required to leave the Sites after operation hours, and the applicant will also be advised to follow the relevant requirements of LandsD as set out in the recommended advisory clauses. Other relevant government departments consulted, including the Commissioner for Transport and the Director of Fire Services (D of FS) have no objection to/no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the applied use on the surrounding areas.
- 11.5 The Sites are the subject of a previously approved application (No. A/YL-SK/293) submitted by the same applicant for the same temporary use for a period of five years, with same site area but with a slightly larger gross floor area and a slightly different layout as mentioned in paragraphs 1.3 and 5 above. The planning approval was subsequently revoked on 4.8.2024 due to non-compliance with time-limited approval conditions related to the submission of a drainage proposal and the implementation of the drainage and FSIs proposals. In this regard, the applicant has submitted drainage and FSIs proposals under the current application and both CE/MN of DSD and D of FS have no objection to the application subject to relevant approval conditions being imposed. As such, sympathetic consideration may be given 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 Given that the Committee approved a previous application for the same use at the same site in 2020 and there has been no major change in planning circumstances, approval of the current application is in line with the Committee's previous decision.
- 11.7 Regarding the public comment objecting to the application as stated in paragraph 10 above, the planning considerations 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 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 five years **until ~~6.9.2029~~ 20.9.2029**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised 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 **~~6.3.2025~~ 20.3.2025**;
- (b) in relation to (a) above, the implementation of the revised 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 **~~6.6.2025~~ 20.6.2025**;
- (c) in relation to (b) above, the implemented drainage facilities on the Sites shall be maintained at all times during the planning approval period;
- (d) the submission of a revised 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 **~~6.3.2025~~ 20.3.2025**;
- (e) the implementation of the revised 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 **~~6.6.2025~~ 20.6.2025**;
- (f) 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; and
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 applied use is not in line with the planning intention of the "V" zone which is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification 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 with attachments received on 12.7.2024
<b>Appendix Ia</b>	FI received on 16.8.2024
<b>Appendix Ib</b>	FI received on 28.8.2024
<b>Appendix II</b>	Previous Application
<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-4c</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2024**