

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/642

<u>Applicant</u>	: Mr. WONG Wai Ming represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 139 (Part) and 145 in D.D. 96, Pun Uk Tsuen, San Tin, Yuen Long
<u>Site Area</u>	: About 2,350 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) and Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (excluding container vehicle) and shop and services for a period of 5 years (**Plan A-1**). The Site falls within a “V” zone covering Pun Uk Tsuen and Chau Tau Tsuen in San Tin. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ and ‘Shop and Services’ are both Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is paved and currently vacant.
- 1.2 As shown on **Plans A-2 and A-3**, the Site is accessible from Lok Ma Chau Road via a local access. **Drawing A-1** shows the layout plan of the proposed development. Ingress/egress (7.3m wide) to the Site is provided at the northern site boundary. There will be 4 structures (one to two storeys, 2.8m to 6.5m in height) with a gross floor area of about 249m² for shop and services (estate agency), meter room and canopy for parking. The proposed public vehicle park will provide a total of 25 private car parking spaces and 7 light goods vehicle parking spaces while the proposed shop and services will provide 3 private car

parking spaces for staff and visitors of the proposed shop and services. The proposed shop and services, which is for estate agency, will be operated from 9:00 a.m. to 7:00 p.m. daily including public holidays, whereas the proposed public vehicle park will be operated 24 hours daily including public holidays.

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

- (a) Application form received on 2.2.2023 (Appendix I)
- (b) Further Information (FI) received on 16.3.2023* (Appendix Ia)
- (c) FI received on 21.3.2023* (Appendix Ib)

Remarks: * accepted and exempted from publication and recounting requirements.

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**. They can be summarised as follows:

- (a) The proposed development at the Site intends to support the daily lives of nearby residents. It will not frustrate the long term planning intention of the “V” zone. The building height and form of the proposed structures are insignificant and similar to New Territories Exempted Houses (NTEHs) within the same “V” zone. Therefore, the proposed development is not incompatible with the surrounding environment.
- (b) Sufficient space is provided for vehicular manoeuvring within the Site to ensure that no vehicle will queue back to or reverse onto/from the Site to public road. 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. No vehicles without valid licenses issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period. No dismantling, maintenance, repairing, cleansing, paint spraying, other workshop activities or storage activities are allowed on the Site. No adverse traffic impact to the surrounding road network is anticipated.
- (c) The applicant will 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 minimize adverse environmental impact and nuisance to the surrounding area, i.e. the use of septic tank for sewage treatment.
- (d) The proposed development would not cause significant environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures including the submission of drainage proposal and fire service installations proposal will be provided after the granting of planning approval.

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. 31A) by posting site notice and sending notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

The Site is subject to active planning enforcement action for UD’s involving storage use (including deposit of containers) and use for place for parking of vehicles. Enforcement Notice (EN) was issued on 15.9.2022 requiring discontinuation of the UD’s (**Plan A-2**). Site inspection on 16.2.2023 revealed that the Site is largely vacant.

6. Previous Applications

There is no previous application at the Site.

7. Similar Applications

7.1 During the past five years, there was one similar application (No. A/YL-ST/608) for temporary public vehicle park and ancillary shop and services use within “V” zones on the OZP which was approved by the Committee mainly on the considerations that the development was not incompatible with the surrounding areas; there being no adverse impacts; and concerns of government department could be addressed by imposing approval conditions.

7.2 There were 11 applications for similar public vehicle park use within “V” zones on the OZP (No. A/YL-ST/536, 537, 540, 541, 555, 557, 579, 583, 587, 606 and 624) which were all approved by the Committee on similar considerations as stated in para. 7.1 above.

7.3 There were seven applications for similar shop and services use within “V” zones on the OZP, of which six were approved and one was rejected by the Committee. The six approved similar applications (No. A/YL-ST/521, 556, 574, 585, 605, 634) were approved on similar considerations as stated in para. 7.1 above. The remaining similar application (No. A/YL-ST/593) was rejected by the Committee

on the considerations that the proposed development was not in line with the planning intention of the “V” zone; the scale of the proposed commercial development was considered excessive; and it is considered not compatible with the developments in the surrounding areas.

- 7.4 Details of the similar applications are summarised at **Appendix III**. Their location are shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

- 8.1 The Site is:

- (a) accessible at the north via a local access from Lok Ma Chau Road;
- (b) currently paved and largely vacant; and
- (c) located within the Wetland Buffer Area (WBA) of Deep Bay Area.

- 8.2 The surrounding areas are rural in character predominated by woodland, grassland and village houses:

- (a) to its north and northeast across a local access are existing village settlements and residential dwellings of Pun Uk Tsuen with some vehicle parks;
- (b) to its west and northwest are woodland, graveyards, vehicle parks, shrines and a tsz tong; and
- (c) to its immediate south are residential dwellings and a public toilet and to its further south and southeast are grassland.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses 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 the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

- 10.2 The following government department has been consulted and its views on the application are summarised as follows:

Traffic

- 10.2.1 Comments of the Commissioner for Transport (C for T):

- a) Transport Department supports the application from traffic engineering perspective to meet the public demand of car parking spaces.
- b) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
- c) The advisory comments are in **Appendix V**.

11. Public Comments Received During Statutory Publication Period

On 10.2.2023, the application was published for public comments. During the statutory publication period, nine public comments were received from residents of Chau Tau Tsuen and Pun Uk Tsuen and individuals objecting to or raising concern on the application that the proposed development is not in line with the planning intention of the “V” zone. It would create nuisances to the surrounding areas and would bring in traffic, thereby inducing traffic congestion and creating safety concerns to the pedestrians, cyclists and villagers. It would destroy the natural environment, especially the nearby green belt and watercourse (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary public vehicle park (excluding container vehicle) and shop and services for a period of 5 years. The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Commercial, community and recreational uses may be permitted on application to the Board. The proposed use is not entirely in line with the planning intention of the “V” zone. According to DLO/YL, LandsD, there is no Small House application being processed/approved at the Site. Approval of the application on a temporary basis for a period of 5 years would not frustrate the long term planning intention of the “V” zone.
- 12.2 The proposed uses are not incompatible with the surrounding uses which mainly comprises village houses/residential dwellings. According to the applicant, the proposed public vehicle park and shop and services are to serve the nearby villagers. It is noted that C for T supports the application as it could meet the

local demand for parking spaces in the vicinity.

- 12.3 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application from nature conservation point of view.
- 12.4 Other concerned government departments, including DEP, D of FS, CTP/UD&L of PlanD and CE/MN of DSD have no objection to or no adverse comment on environmental, fire safety, landscape and drainage aspects respectively. Technical requirements of D of FS and CE/MN of DSD are imposed through approval conditions in paragraphs 13.2 below. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to mitigate any potential environmental impacts on the surrounding areas.
- 12.5 During the past five years, the Committee has approved 11 similar applications for public vehicle park use, 6 similar applications for shop and services use and 1 similar application for public vehicle park with ancillary shop and services use within “V” zones on the OZP as detailed in paragraph 7 above. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comment raising objection/concerns on the proposed development as detailed in paragraph 11 above, the planning considerations and departmental comments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 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 31.3.2028. 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. for shop and services, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle without valid licence issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) no medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes) including

container trailers/tractors as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;

- (d) no dismantling, maintenance, repairing, cleansing, paint spraying, other workshop activities or storage activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) 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 30.9.2023;
- (g) in relation to (f) 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 31.12.2023;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the submission of a 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 30.9.2023;
- (j) in relation to (i) above, 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 31.12.2023;
- (k) if any of the above planning condition (a), (b) (c), (d), (e) or (h) 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
- (l) if any of the above planning condition (f), (g), (i) or (j) 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**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed uses are not in line with the planning intention of the "V" zone,

which is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within “V” zone is primarily intended for development of small houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form received on 2.2.2023
Appendix Ia	FI received on 16.3.2023
Appendix Ib	FI received on 21.3.2023
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Similar applications
Appendix IV	Government departments’ general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public Comments
Drawing A-1	Layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a and 4b	Site photos

**PLANNING DEPARTMENT
MARCH 2023**