

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/523

- Applicant** : Hang Shun Refrigeration Equipment Company Limited represented by Top Bright Consultants Limited
- Site** : Lots 4915 S.A (Part), 4915 S.B (Part), 4916 S.A & S.B (Part), 4917 RP (Part) and 4918 RP (Part) in D.D. 116 and Adjoining Government Land (GL), Tai Tong Road, Yuen Long, New Territories
- Site Area** : 2,455 m² (about) (including GL of about 172 m² or about 7%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18 currently in force

Draft Tai Tong OZP No. S/YL-TT/17 at the time of submission
- Zoning** : “Residential (Group D)” (“R(D)”) *[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)]*

(No change on the zoning)
- Application** : Temporary Shop and Services with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services with ancillary office for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “R(D)” zone, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently mainly vacant and partly occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves three previous applications (No. A/YL-TT/126, 238 and 360) for extension of school building, temporary recyclable collection centre and the same use as the current application respectively. The last application (No.

A/YL-TT/360) for the same use as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 23.10.2015. All time-limited approval conditions under the last application had been complied with and the permission lapsed on 24.10.2018. Compared with the last application, the current application is submitted by the same applicant for the same use with different site layout and development parameters on a larger site.

- 1.3 According to the applicant, the proposal is intended for a retail shop for refrigeration equipment/parts (such as compressors, condensing units, fan motors, defrost timers and thermostats) with ancillary office. No workshop activities will be conducted at the Site and no medium or heavy goods vehicles will be allowed to access the Site. Plans showing the site layout and landscape and tree preservation proposal submitted by the applicant are at **Drawings A-1** and **A-2** respectively.
- 1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/360 (a)	Current Application No. A/YL-TT/523 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services with Ancillary Office for a Period of 3 Years		--
Site Area	1,271 m ² (about)	2,455 m ² (about)	+1,184 m ² (+93%)
Total Floor Area	321 m ²	914 m ²	+593 m ² (+185%)
No. and Height of Structures	4 • for retail shop, ancillary storage and site office (2.4-4.8m, 1-2 storey(s))	7 • for retail shop with/without showroom, ancillary storage, site office and washroom (2.5m-7m, 1-2 storey(s))	+3 (+75%)
No. of Parking Spaces	4 (for private cars) (5m x 2.5m each)	10 (for private cars) (5m x 2.5m each)	+6 (+150%)
No. of Loading and Unloading Spaces	1 (for light goods vehicle (LGV)) (7m x 3.5m)	2 (for LGV) (7m x 3.5m each)	+1 (+100%)
Operation Hours	9:00 am to 7:00 pm., with no operation on Sundays and public holidays		--

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

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|--|----------------------|
| (a) Application Form received on 22.7.2021 | (Appendix I) |
| (b) Supplementary Planning Statement (SPS) | (Appendix Ia) |

- (c) Supplementary Information received on 29.7.2021 (Appendix Ib)
- (d) Further Information (FI) received on 27.8.2021 (Appendix Ic)
responding to departmental comments
[exempted from publication and recounting requirements]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are mainly detailed in the SPS, Supplementary Information and FI (**Appendices Ia to Ic**). They can be summarised as follows:

- (a) The Site was subject to planning permission approved in 2015. Nevertheless, the shop was temporarily closed due to COVID-19. With the ongoing economic recovery from COVID-19, the applicant intends to expand its business and a larger site is required to meet the operational need of displaying more products and providing more customer parking spaces. The proposal could also serve as an interim measure for the applicant to search for another appropriate location for business expansion.
- (b) The temporary proposal would not jeopardise the planning intention of the “R(D)” zone. It could put vacant land into gainful use, bring benefits to local residents and generate employment opportunities in the area. Furthermore, the concerned lot owners have no immediate plan for residential development as amalgamation of adjacent lots will be required to form a larger site with building setback from Tai Tong Road as a traffic noise mitigation measure (**Plan A-2**).
- (c) The proposal is compatible with the surrounding land uses. Existing trees at the Site will be preserved. Adverse traffic, environmental and drainage impacts arising from the proposal are not anticipated.

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 the notice to the Shap Pat Heung Rural Committee through 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 currently not subject to planning enforcement action.

5. **Previous Applications**

- 5.1 The Site involves three previous applications (No. A/YL-TT/126, 238 and 360) for extension of school building, temporary recyclable collection centre and the

same use as the current application respectively. The former two applications were for different uses not relevant to the current application, details of all three applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.

- 5.2 Application No. A/YL-TT/360 covering the eastern portion of the Site for the same use as the current application was approved with conditions by the Committee for a period of 3 years on 23.10.2015, mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone; the proposal was not incompatible with surrounding environment; and the concerns of the departments could be addressed by imposing approval conditions. All approval conditions under the last application had been complied with and the planning permission lapsed on 24.10.2018.
- 5.3 Compared with the last application, the current application is submitted by the same applicant for the same use with different site layout and development parameters on a larger site.

6. Similar Application

There is no similar planning application within the subject “R(D)” zone.

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

7.1 The Site is:

- (a) abutting Tai Tong Road to its east;
- (b) paved and fenced off; and
- (c) currently mainly vacant and partly occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) mixed in nature with predominantly village houses intermixed with open storage/storage yards, a warehouse, private gardens, ruin, unused land and vacant land/structures in the subject “R(D)” zone;
- (b) predominantly village houses and unused/vacant land with car parks, a store and offices in the adjoining “Village Type Development” zones to the further north and east of the Site;
- (c) mainly unused land in the “Agriculture” zone to the west of the Site;
- (d) there are several residential structures in the vicinity of the Site, with the nearest one located to the immediate southwest of the Site; and

- (e) except for a store and office to the northeast of the Site, the other open storage/ storage yards, warehouse, car parks and office in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

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 and public comments, where relevant, 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 GL and Old Schedule Agricultural Lots 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) Within the Site, Lots 4916 S.A & S.B, 4917 RP and 4918 RP in D.D. 116 and part of the GL are covered by Short Term Waviers (STWs) No. 4728, 4729 and 4730 and Short Term Tenancy (STT) No. 3081 respectively to permit structures erected thereon for the purpose of “Temporary Shop and Services (Retail Shop for Refrigeration Equipment) with Ancillary Office”.
- (c) No permission is given for occupation of the GL not covered by STT No. 3081 (“the remaining GL”) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (d) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or to 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. Furthermore, the applicant has to either exclude the remaining GL from the Site or apply to her office for a STT to occupy the

remaining GL. Applications for any of the above will be considered by her department 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 fee, as may be imposed by her department.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Tong Road.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

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 development from the public drainage point of view.
- (b) Should the Board consider the application acceptable from the planning point of view, approval conditions requiring the submission, implementation and maintenance of a drainage

proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal 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. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

District Officer's Comments

9.1.8 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

Her office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (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 the Statutory Publication Periods

On 30.7.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from an individual and a local resident. The individual opined that the shop may have been in

operation for some time after expiry of the previous planning permission (**Appendix III-1**). The local resident objected to the application mainly on the grounds that the proposal would create adverse traffic, environmental, ecological and landscape impacts and pose building safety concerns for the nearby residents (**Appendix III-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services with ancillary office for a period of 3 years at the Site zoned “R(D)” on the OZP. Although the applied use 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 into permanent buildings and for low-rise, low density residential developments, the applied use could meet any such demand for shop and services in the area. There is also no known programme for long-term development at the Site. As such, approval of the application on a temporary basis of three years would not frustrate the long-term planning intention of the area.
- 11.2 The surrounding areas comprise predominantly village houses intermixed with open storage/storage yards and carparks (**Plan A-2**). The applied use is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments including C for T, DEP, DAFC and CE/MN, DSD. Adverse traffic, environmental, ecological and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that one previous approval for the same use has been granted to the Site, approval of this application is generally in line with the Committee’s previous decision. Although there was one previous application rejected by the Committee, it was for a different use (i.e. temporary recyclable collection centre) not relevant to the current application.
- 11.5 There were two public comments raising concerns or objecting to the application during the statutory publication period. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 mentioned 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

10.9.2024. 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 operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles, including container tractor/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (f) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (g) 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 10.3.2022;
- (h) in relation to (g) 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 10.6.2022;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) 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 10.3.2022;
- (k) in relation to (j) 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 10.6.2022;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (i) 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

- (m) if any of the above planning conditions (g), (h), (j) or (k) 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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures into permanent buildings and for low-rise, low density residential development. 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

Appendix I	Application Form received on 22.7.2021
Appendix Ia	SPS
Appendix Ib	Supplementary Information received on 29.7.2021
Appendix Ic	FI received on 27.8.2021
Appendix II	Previous Applications covering the Site
Appendices III-1 and III-2	Public Comments received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape and Tree Preservation Proposal
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan

Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**