

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/537

- Applicant** : Mr. TSANG Sin Tung represented by R-riches Property Consultants Limited
- Site** : Lot 1207 RP (Part) in D.D. 118, Tai Tong, Yuen Long, New Territories
- Site Area** : 307 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18
- Zonings** : “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) (about 63%)
[Restricted to maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
“Open Storage” (“OS”) (about 37%)
- Application** : Temporary Shop and Services 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 for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “OU(RU)” and “OS” zones, ‘Shop and Services’ (except Service Trades for the “OS” zone) is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently occupied by a 2-storey structure for vehicle showroom and workshop without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves a previous application (No. A/YL-TT/466) for the same use as the current application which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 31.5.2019 (**Plan A-1**). However, the planning permission was revoked on 30.10.2021 due to non-compliance with approval conditions on implementation of run-in/out, drainage and fire service installations (FSIs) proposals. Compared with the previous application, the current application is submitted by the same applicant for the same use with similar site layout and development parameters on the same site.
- 1.3 According to the applicant, the proposal is for a vehicle showroom to serve the locals. No vehicle repairing, car washing or other workshop activities will be carried out at the Site and no light, medium or heavy goods vehicles, including container tractor/trailers, will be allowed to be parked/stored on or entre/exit the

Site. Plans showing the vehicular access leading to the Site, site layout, drainage proposal and FSIs proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.4 The major development parameters of the previously approved application (No. A/YL-TT/466) and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/466 (a)	Current Application No. A/YL-TT/537 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services for a Period of 3 Years		--
Site Area	About 307 m ²		--
Total Floor Area (Non-domestic)	273 m ²	304 m ²	+31 m ² (+11.4%)
No. and Height of Structures	2 • for vehicle showroom, office and canopy (8.23m, 1 storey)	1 • for shop and services, storage and office (8.23m, 2 storeys)	-1 (-100%)
No. of Parking Spaces	1 (for private car) (5m x 2.5m)	2 (for private car) (5m x 2.5m each)	+1 (+100%)
No. of Loading and Unloading Space	--		--
Operation Hours	10:00 a.m. to 6:00 p.m. daily	9:00 a.m. to 7:00 p.m. daily	Longer Operation Hours

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

- (a) Application Form with appendix and plans received on 13.12.2021 (**Appendix I**)
- (b) Supplementary Information received on 20.12.2021 (**Appendix Ia**)
- (c) Further Information (FI) received on 21.1.2022 (**Appendix Ib**)
[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 Application Form and FI (**Appendix I** and **Ib**). They can be summarised as follows:

- (a) The temporary proposal would not jeopardise the planning intentions of the “OU(RU)” and “OS” zones. The applicant will strictly follow the proposed scheme once planning approval is secured. The Site involved a previous application for the same use submitted by the same applicant. Approval of the application would not set an undesirable precedent.

- (b) The applicant undertakes to strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice) during the operation. The Professional Persons Environmental Consultative Committee Practice Notes will also be observed for sewage treatment at the Site.
- (c) Relevant technical proposals will be provided after approval of the application. Overall, adverse traffic, environmental, landscape and drainage impacts arising from the proposal are not anticipated.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone’ (TPB PG-No. 38) are relevant to the application. The relevant extract of the Guidelines is attached at **Appendix II** and the assessment criteria are summarised as follows:

application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Application

The Site involves a previous application (No. A/YL-TT/466) for the same use as the current application which was approved with conditions for a period of 3 years by the Committee on 31.5.2019, mainly on the considerations that the temporary proposal would not jeopardise the long-term planning intentions; the proposal was not incompatible with the surrounding uses; and the application was generally in line with TPB PG-No. 38. However, the planning permission was subsequently revoked on 30.10.2021 due to non-compliance with approval conditions on implementation of run-in/out, drainage and FSIs proposals. Compared with the previous application, the current application is submitted by the same applicant for the same use with similar site layout and development parameters on the same site. Details of the application are summarised in **Appendix III** and the boundary of the site is shown on **Plan A-1**.

7. Similar Applications

While there is no similar application within the “OS” zone, there are eight similar applications (No. A/YL-TT/362, 400, 408, 414, 470, 494, 495 and 507) for various temporary shop and services uses within the subject “OU(RU)” zone. The applications were all approved with conditions by the Committee each for a period of 3 years between 2015 and 2020, mainly on similar considerations as stated in paragraph 6 above. However, the planning permissions of applications No. A/YL-TT/362, 408 and 414 were revoked in 2017 and 2019 respectively due to non-compliance with approval conditions. Details of the applications are at **Appendix IV** and the locations of the sites 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 via a short local track leading from Tai Shu Ha Road West to its northeast (**Plans A-2 and A-3**);
- (b) paved and fully occupied by a temporary structure; and
- (c) currently occupied by a 2-storey structure for vehicle showroom and workshop without valid planning permission (**Plans A-2, A-4a and A-4b**).

8.2 The surrounding areas have the following characteristics (Plans A-2**):**

- (a) mixed in character with predominately open storage/storage yards and logistics centres with scattered residential structures, warehouses, parking of vehicles, a canteen, car services, shrubland and vacant land/structure;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 40m to its southeast; and
- (c) except for the open storage/storage yards, warehouse, canteen and car service in the subject “OS” zone, the other open storage/storage yards, logistics centres, warehouses, parking of vehicles and car services in the vicinity of the Site are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. Planning Intentions

- 9.1 The planning intention of the “OU(RU)” zone is primarily for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities.
- 9.2 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

10. Comments from Relevant Government Departments

- 10.1 The following government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

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

- (a) 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.
- (b) Should planning approval be given to the application, the lot owner(s) 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. 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 will be approved. If such application 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

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

The applicant should be reminded of the detailed comments at **Appendix VI**.

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

The applicant should be reminded of the detailed comments at **Appendix VI**.

Environment

- 10.1.4 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 issued by his department to minimise any potential environmental nuisances on the surrounding area.

Drainage

10.1.5 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. The applicant should also note the detailed comments on the submitted drainage proposal at **Appendix VI**.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission, implementation and maintenance of revised drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) The applicant should note his detailed comments, including those on the submitted FSIs proposal, at **Appendix VI**.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structure 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 VI**.

District Officer's Comments

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

His office has not received any comment from the locals.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 21.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One individual objects to the application mainly on the grounds that the proposal would create adverse fire safety and environmental impacts, thereby affecting the safety and living quality of the villagers (**Appendix V-1**). The other individual opines that the Board should take into account the revocation history of the previous application (**Appendix V-2**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary shop and services for a period of 3 years at the Site zoned “OU(RU)” (about 63%) and “OS” (about 37%) on the OZP. The planning intention of the “OU(RU)” zone is primarily for the preservation of the character of the rural area, while the planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. Although the applied use is not entirely in line with the planning intentions of the “OU(RU)” and “OS” zones, the proposal could meet any such demand for shop and services in the area. Furthermore, there is 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 intentions of the area.
- 12.2 The surrounding areas comprise predominantly open storage/storage yards and logistics centres (**Plan A-2**). Although there are residential structures nearby, the applied use is generally not incompatible with the surrounding uses.
- 12.3 There is no adverse comment on the application from concerned government departments, including C for T, DEP, D of FS and CE/MN, DSD. Adverse traffic, environmental, fire safety and drainage impacts arising from the applied use are not anticipated. The application is also generally in line with TPB PG-No.38 in that the proposal would not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings, nor would it overstrain the capacity of existing and planned infrastructure. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to address the technical requirements of other 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, and to note that the planning permission does not condone any other development/use currently existing at the Site but not covered by the application.
- 12.4 The Site involves a previous application (No. A/YL-TT/466) for the same use as the current application, which was approved with conditions for a period of 3 years by the Committee on 31.5.2019. However, the planning permission was revoked on 30.10.2021 due to non-compliance with time-limited approval conditions on

implementation of run-in/out, drainage and FSIs proposals. The current application is submitted by the same applicant with similar layout and development parameters on the same site. Nevertheless, the applicant has submitted run-in/out, drainage and FSIs proposals for the current application and CE/MN, DSD and D of FS have no in-principle objection to the application. Furthermore, CHE/NTW, HyD has no adverse comment on the application and the provision of run-in/out is no longer required for the current proposal. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will also be advised that should he 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.

- 12.5 Given that one previous approval has been granted to the Site and eight similar applications for shop and services use within the subject “OU(RU)” zone have been approved by the Committee, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.6 There were two public comments raising concerns or objecting to the application received during the statutory publication period. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments as summarised in paragraph 11 above, 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 3 years until 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no light, 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;
- (b) the submission of a revised drainage proposal 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 28.4.2022;
- (c) in relation to (b) above, the implementation of the 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 28.7.2022;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (e) the submission of a revised fire service installations proposal 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 28.4.2022;
- (f) in relation to (e) above, the implementation of the 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 28.7.2022;
- (g) if any of the above planning condition (a) or (d) 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
- (h) if any of the above planning condition (b), (c), (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 at **Appendix VI**.

- 13.3 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 intentions of the "OU(RU)" and "OS" zones, which are for the preservation of the character of the rural area and provision of land for appropriate open storage uses respectively. No strong planning justification has been given in the submission for a departure from the planning intentions, 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 with appendix and plans received on 13.12.2021
Appendix Ia	Supplementary Information received on 20.12.2021
Appendix Ib	FI received on 21.1.2022
Appendix II	Relevant extract of TPB PG-No. 38

Appendix III	Previous Application covering the Site
Appendix IV	Similar Applications within the same “OU(RU)” zone on the OZP
Appendices V-1 and V-2	Public Comments received during the Statutory Publication Period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Drawing A-4	FSIs Proposal
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**