

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/546

Applicant : Mr. YIP Hoi Shan represented by R-riches Property Consultants Limited

Site : Lot 4219 (Part) in D.D. 116, Tai Tong, Yuen Long, New Territories

Site Area : 187 m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18

Zoning : “Open Space” (“O”)

Application : Proposed Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 5 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ within the “O” zone requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a vehicle repair workshop without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is the subject of one previous application (No. A/YL-TT/415) (details at paragraph 5 below).
- 1.3 The Site is accessible from Tai Shu Ha Road East via a local track (**Drawing A-1 and Plan A-2**). According to the applicant, the proposal is for a retail shop of vehicle parts (e.g. mud flaps, windscreen wipers, coolants and carpets etc.) to serve the locals. The estimated number of staff and visitors per day are 2 and 8 respectively. No dismantling, repairing, cleansing, paint-spraying or other workshop activities will be carried out at the Site and no light, medium or heavy goods vehicle, including container trailers/tractors, will be parked/stored on or enter/exit the Site. Plans showing the vehicular access leading to the Site, site layout, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.4 The major development parameters of the current application and the previously approved application No. A/YL-TT/415 are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/415 (a)	Current Application No. A/YL-TT/546 (b)	Difference (b)-(a)
Applied Use	Proposed Temporary Shop and Services (Vehicle Parts Retail Shop) for a Period of 3 Years	Proposed Temporary Shop and Services for a Period of 5 Years	Longer Approval Period Sought
Site Area	About 181.6 m ²	About 187 m ²	+5.4m ² (+3%)
Total Floor Area (Non-domestic)	95.9 m ² (about)	135 m ² (about)	+39.1m ² (+40.8%)
No. and Height of Structures	2 for shop and services and rain shelter (5.5m, 1 storey)	2 for shop and services, office and storage (3-5.5m, 1 storey)	--
No. of Loading/Unloading Space	1 (for van) (5m x 2.5m)	--	-1
No. of Parking Space	--	1 (for private car) (5m x 2.5m)	+1
Operation Hours	9:00 a.m. to 7:00 p.m., with no operation on Sundays and public holidays	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 6.4.2022 (**Appendix I**)
- (b) Further Information (FI) received on 12.5.2022 (**Appendix Ia**)
[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 (**Appendix I**). They can be summarised as follows:

- (a) The temporary proposal will not jeopardise the long term planning intention of the “O” zone. As the Site involves a previously approved application (No. A/YL-TT/415) for same use, approval of the current application will not set an undesirable precedent.
- (b) The proposal will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Advance booking is required for visitor to access the Site and sufficient space is provided for manoeuvring of vehicles. The applicant will strictly follow the “Code of Practice on Handling the

Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) and “Professional Persons Environmental Consultative Committee Practice Notes” to minimise any potential environmental impacts and nuisances. Technical proposals and mitigation measures will be implemented after approval of the application.

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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to any planning enforcement action.

5. **Previous Application**

The Site involves a previous application (No. A/YL-TT/415) for the same use as the current application which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2017, mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term development of the area; the proposal was not incompatible with the surrounding land uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission was revoked on 22.5.2020 due to non-compliance with approval conditions on implementation aspects. Compared with the last application, the current application is submitted by a different applicant for the same use on a similar site with different site layout and development parameters. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.

6. **Similar Applications**

There are two similar applications (No. A/YL-TT/483 and 529) for temporary shop and services uses within the subject “O” zone, which were approved with conditions by the Committee for a period of 3 or 5 years in 2019 and 2021 respectively, mainly on similar considerations as those specified in paragraph 5 above. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible via a local track leading from Tai Shu Ha Road East to its west (**Plans A-2 and A-3**);

- (b) paved and fenced off; and
- (c) currently occupied by a vehicle repair workshop 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 character comprising predominately open storage/storage yards and residential structures with scattered parking of vehicles, warehouse, eating place, welfare associations, agricultural land, public toilet, unused land and vacant land/structures in the subject “O” zone and the adjacent “Residential (Group D)” zone;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate north;
- (c) to its north across a nullah and Long Ho Road in an area shown as ‘Road’ on the approved Yuen Long OZP No. S/YL/25 is Yuen Long Highway; and
- (d) except an open storage yard to the south of the Site, the other open storage/storage yards, welfare associations, eating place, warehouse and parking of vehicles in the vicinity of the Site are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

9. Comments from Relevant Government Departments

All 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.

10. Public Comments Received During the Statutory Publication Period

On 19.4.2022, 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 urges the Board to question the previous application’s history of compliance with approval conditions (**Appendix V-1**). The other individual objects to the application mainly on the grounds that the proposal is not in line with the planning intention of the “O” zone and there is insufficient information to support the application, making the proposal’s impact uncertain. The individual also suggests that temporary open space should be provided at the Site to serve the community even though a permanent scheme is not available at present (**Appendix V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 5 years at the Site zoned “O” on the OZP. Although the proposed use is not in line with the planning intention of the “O” zone, which is primarily for provision of outdoor open-air public space for active and/or passive recreational uses, there is no known programme for development of the open space and the proposal could meet any such demand for shop and services in the area. Furthermore, Director of Leisure and Cultural Services has no objection to the application and she has no plan to develop the Site into public open space at this juncture. As such, approval of the application on a temporary basis of five years would not jeopardise the long-term development of the Site.
- 11.2 The surrounding area comprises predominately open storage/storage yards and residential structures with scattered parking of vehicles and warehouse, etc. (**Plan A-2**). While there are residential structures in the vicinity, the proposed use is small in scale and generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services (D of FS) and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD). Significant adverse traffic, environmental, fire safety 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 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 (i.e. vehicle repair workshop) but not covered by the application.
- 11.4 The Site involves one previous application (No. A/YL-TT/415) for the same use as the current application which was approved with conditions for a period of 3 years by the Committee on 22.12.2017. However, the planning permission was revoked on 22.5.2020 due to non-compliance with time-limited approval conditions on implementation aspects. Nevertheless, the current applicant has submitted relevant proposals, including drainage and FSIs proposals, for the current application which were accepted by CE/MN, DSD and D of FS. 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.
- 11.5 Given that one previous approval for the same use has been granted to the Site and two similar applications within the subject “O” zone have been approved, approval of the current application is generally in line with the Committee’s previous decisions.

- 11.6 There were two public comments objecting to/raising concerns on the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 5 years until 20.5.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no light, medium or heavy goods vehicle, including container trailers/tractors, 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 implementation of the accepted 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 20.11.2022;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 20.11.2022;
- (e) if any of the above planning condition (a) or (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
- (f) if any of the above planning condition (b) or (d) 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 proposed use is not in line with the planning intention of the "O" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general

public. 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

Appendix I	Application Form with appendix and plans received on 6.4.2022
Appendix Ia	FI received on 12.5.2022
Appendix II	Previous Application and Similar Applications within the Subject "O" Zone
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V-1 and V-2	Public Comments Received During the Statutory Publication Period
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
MAY 2022**