

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/374

- Applicant** : Sun Cheong Management Consultant Limited
- Site** : Lot 2093 (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 500 m²
- Lease** : Block Government Lease (Demised for Agricultural Use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Shop and Services (Retail of Family Goods) 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 proposed temporary shop and services (retail of family goods) with ancillary office for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “REC” on the OZP. According to the Notes of the OZP for “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved, partly fenced-off, partly vacant and partly occupied by temporary structures for storage and office use without valid planning permission (**Plans A-3, A-4a to A-4c**).
- 1.2 The Site is the subject of 4 previous planning applications (**Plan A-1**) for different uses which were all approved. The last application No. A/YL-LFS/307 for temporary shop and services (retail of family goods) with ancillary office was approved on 9.2.2018 but the permission was revoked on 9.5.2020 due to non-compliance with time-limited approval conditions. Compared with the last application No. A/YL-LFS/307, the current application was submitted by the same applicant for the same use on the same site with the same layout and development parameters.
- 1.3 The Site is accessible from Shan Tung Street via a local track and the ingress/egress point is located at the south-western boundary of the Site (**Drawings A-1 and A-2 and Plan A-2**). As shown on **Drawing A-1** and indicated in the submission, there

will be two one-storey temporary structures (converted containers) on the Site with a total floor area of 72m² for retail shop and ancillary office uses (with building height of not more than 5m, with a floor area of not exceeding 36m² each). No parking space and loading/unloading space will be provided and the operation hours of the applied use are from 9:00 a.m. to 7:30 p.m. from Mondays to Sundays including public holidays. The proposed layout plan, vehicular access plan and drainage plan are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form received on 25.9.2020 with development **(Appendix I)** proposal and plans
- (b) Further Information received on 2.11.2020 with drainage **(Appendix Ia)** proposal as well as estimated trip generation and attraction associated with goods replenishment
(exempted from publication and recounting requirements)
- (c) Further Information received on 11.11.2020 clarifying the **(Appendix Ib)** method of goods replenishment
(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 at **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed development is a temporary use which would not jeopardize the long term planning intention of the “REC” zone.
- (b) The nature, form and layout of the proposed development are compatible with the surrounding environment. There are some open storage developments in the “REC” zone in the surrounding areas, which have been approved by the Board for temporary use. Compared with the open storage use, the application use is relatively simple.
- (c) The proposed development provides convenience to the surrounding residents. The opening hour is proposed to be restricted from 9:00 a.m. to 7:30 p.m. daily (including Sundays and public holidays) to be compatible with the surrounding environment. No parking and loading/unloading spaces will be provided. The applicant will replenish the goods by trolley from the carpark near Lau Fau Shan roundabout. There are no adverse traffic, environmental, visual and drainage impacts from the development.
- (d) The Site is subject to a previous approved Application No. A/YL-LFS/307, the planning permission of which was revoked due to non-compliance with approval conditions regarding the submission and implementation of drainage proposal. The applicant did try to comply with all approval conditions of the previous approval. However, under the work from home policy arising from COVID-19, the applicant cannot comply with the previous approval conditions regarding the submission and

implementation of drainage proposal in time. So sympathetic consideration from the Board is requested.

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

The applicant is not the “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 the Ping Shan Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Applications

5.1 The Site involves 4 previous applications (No. A/YL-LFS/28, 45, 68 and 307) for temporary open storage of marble (Applications No. A/YL-LFS/28, 45 and 68) and temporary shop and services (retail of family goods) with ancillary office (Application No. A/YL-LFS/307), which were approved by the Rural and New Town Planning Committee (the Committee) of the Board or the Board upon review. Details of these applications and the Committee/the Board’s decisions are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

5.2 Applications No. A/YL-LFS/28, 45 and 68 for temporary open storage of marble were approved by the Committee/the Board upon review with conditions for 1 year each between 1998 and 2001 mainly on the considerations of no known implementation programme of the “REC” zone and that sympathetic consideration might be given for the development on a temporary basis of 1 year. Planning permission of application No. A/YL-LFS/68 was revoked on 26.4.2002 due to non-compliance with approval conditions on the landscaping and drainage aspects.

5.3 Application No. A/YL-LFS/307 for proposed temporary shop and services (retail of family goods) with ancillary office was approved with conditions by the Committee on 9.2.2018 for a period of 3 years on the considerations that approval of the application on temporary basis would not frustrate the planning intention of the “REC” zone, the development was not incompatible with the land uses in the surrounding area, there was no adverse comment from the concerned Government departments and/or planning approval was in line with the Committee’s previous decision. However, planning permission of application No. A/YL-LFS/307 was revoked on 9.5.2020 due to non-compliance with the approval conditions on submission and implementation of drainage proposal.

6. Similar Applications

Within the same “REC” zone, there are 2 similar applications (No. A/YL-LFS/330 and 370) for proposed temporary shop and services (retail of family goods) with ancillary office and proposed temporary shop and services (selling of radio controlled cars and accessories). Both of them were approved with conditions by the Committee of the Board on 4.1.2019 and 9.10.2020 respectively for a period of 3 years each on the considerations as mentioned in paragraph 5.3 above. Details of the applications and the Committee’s decision are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plan A-1 to Plan A-4c)

7.1 The Site is:

- (a) currently hard-paved, partly fenced-off, partly vacant and partly occupied by temporary structures (converted containers) for storage and office uses on the Site without valid planning permission; and
- (b) accessible from Shan Tung Street via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north-east is vacant land. To its further north and north-east are mainly open storage yards of container and container vehicles/machinery and construction materials/recycling materials/bamboo and parking of trailers which are suspected unauthorized developments (UDs), a temporary warehouse for storage of animal feed with valid planning permission (Application No. A/YL-LFS/361), a warehouse of animal feed tolerated under the Town Planning Ordinance and residential dwellings (closest around 72m);
- (b) to its west and north-west are mainly vacant land and parking of vehicles which is suspected UD;
- (c) to its south and east is an open storage of marble and construction materials with ancillary workshop with valid planning permission (Application No. A/YL-LFS/308);
- (d) to its further south and southwest are mainly parking of vehicles, workshop and open storage of machinery which are suspected UD. To its further southeast across Deep Bay Road are open storage of machinery which is a suspected UD and an open storage of construction materials with valid planning permission (Application No. A/YL-LFS/336).

8. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive

recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (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) The Site may encroach both sub-divisions 3 and 4 of Slope No. 2SW-C/F-32 (**Plan A-2**). The concerned slope area within the Site is not maintained by Government.
- (c) Should planning approval be given to the planning application, the lot owner(s) of the lot will need to apply to his office for permitting the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) The local track leading to the Site is not under Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.

- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.
- (d) Slope No. 2SW-C/F-32 (**Plan A-2**) is not maintained by HyD.

Environment

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

- (a) The development would not involve operation of heavy vehicles nor dusty operations. Therefore, he has no adverse comment on the application.
- (b) No environmental complaint pertaining to the Site has been received in the past three years.
- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' (COP).

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) According to the aerial photo of 2019 and the site photos taken in October 2020, the Site is mainly hard paved with temporary structures occupied the southern and western portions of the Site. Existing trees are observed at the middle and southern portions of the Site. It is located in an area of rural coastal plains landscape character predominated by tree clusters, woodlands, open storage yards and warehouses. The applied use is considered not incompatible with the landscape character of the surrounding area. In view that significant adverse landscape impact arising from the proposed development is not envisaged, she has no objection to the planning application from the landscape planning perspective.
- (b) In view that the Site is not facing any prominent public frontage and it is surrounded by existing trees, it is recommended to impose a condition to maintain all existing trees within the Site in good condition for the duration of planning approval period should the application be approved by the Board.
- (c) Her comments on tree maintenance are detailed at **Appendix V**.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from drainage point of view. His comments on the drainage plan are detailed at **Appendix V**.
- (b) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to his satisfaction.

Geotechnical

9.1.7 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no adverse geotechnical comment on the application.
- (b) The applicant is reminded to submit the proposed building works, and any necessary slope remedial/site formation works to BD for approval under the provisions of the BO.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (f) Detailed checking under the BO will be carried out at building plan submission stage.

Fire Safety

9.1.9 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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DLO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (West), CEDD (PM(W), CEDD);
- (c) Principal Project Coordinator/Special Duty, DSD (PPC/SD, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Commissioner of Police (C of P); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comment Received During Statutory Publication Period

On 9.10.2020, the application was published for public inspection. During the statutory public inspection period, 1 public comment was received from an individual (**Appendix IV**) objecting to the application for the reasons that the Site is the subject of a previous planning application (No. A/YL-LFS/307) and planning permission of which was revoked due to non-compliance with the approval conditions on the drainage aspect. Besides, the Site is next to the “Coastal Protection Area” zone and the mudflats, which are sensitive locations.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (retail of family goods) with ancillary office use which falls within an area zoned “REC” on the OZP. The planning intention of “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Although the proposed use is not in line with the planning intention of “REC” zone, there has yet to have any known programme to implement the zoned use on the OZP. Therefore, approval of the application on temporary basis would not frustrate the long-term planning intention of the “REC” zone.

11.2 The Site is located in an area of rural coastal plains landscape character predominated by tree clusters, woodlands, open storage yards and warehouses. The proposed use is considered not incompatible with the landscape character of the surrounding area.

11.3 There is no adverse comment from the concerned Government departments, including DEP, C for T, DAFC, CE/MN of DSD, D of FS and CTP/UD&L of PlanD. The proposed use will unlikely create significant adverse environmental, traffic, nature conservation, drainage, fire safety and landscape impacts to the surrounding area. To minimize any possible environmental impacts and nuisance on the surrounding uses, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site would be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “COP” in order to minimize the possible environmental impacts on the nearby sensitive receivers.

11.4 Given that one previous approval (Application No. A/YL-LFS/307) has been granted to the Site and two similar applications (No. A/YL-LFS/330 and 370) for temporary shop and services with ancillary office were approved within the same “REC” zone, approval of the current application is in line with the Committee’s previous decisions. Nevertheless, planning permission of the previous approval (Application No. A/YL-LFS/307) for the same use by the same applicant was revoked due to non-compliance with the time-limited approval conditions requiring the submission and implementation of the drainage proposal. For the current application, the applicant has submitted the drainage proposal in support of the

application and CE/MN, DSD has no in-principle objection to the application. Hence, approval conditions regarding the submission and implementation of the revised drainage proposal are recommended in paragraph 12.2. In view of this, sympathetic consideration may be given to the application. However, shorter compliance period is recommended in order to closely monitor the progress on compliance with approval conditions. Moreover, should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

11.5 1 public comment objecting to the application was received mainly on the grounds as summarized in paragraph 10 above. The planning considerations and assessments in paragraph 11.1 to 11.4 are relevant.

12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department has no objection to the application for the proposed temporary shop and services (retail of family goods) with ancillary office for a period of 3 years.

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 **20.11.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:30 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site 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 **20.2.2021**;
- (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 **20.5.2021**;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a 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 **20.2.2021**;
- (f) in relation to (e) above, the implementation of the 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 20.5.2021;

- (g) the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (d) or (g) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (b), (c), (e) or (f) is not complied with by the above 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**.

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

the proposed development is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from such 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 25.9.2020
Appendix Ia	Further Information received on 2.11.2020
Appendix Ib	Further Information received on 11.11.2020
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within the same "REC" Zone
Appendix IV	Public Comment
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Vehicular Access Plan

Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**