

RNTPC Paper No. A/YL-KTN/582
For Consideration by
the Rural and New Town
Planning Committee
on 26.1.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/582

- Applicants** : Mr. TANG Lam Piu represented by R-riches Property Consultants Limited
- Site** : Lot 565 S.A (Part), 640 (Part), 796 (Part), 797 (Part), 798 (Part) in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Kam Tin, Yuen Long
- Site Area** : 1,637.5m² (Including Government land of about 243m²)
- Lease** : Lot 565 S.A (Part), 796 (Part), 797 (Part) and 798 (Part) in D.D. 107 - Block Government Lease (demised for agricultural use) (902m² or about 55.1% of the site)
- Lot 640 (Part) in D.D. 107 - Block Government Lease (demised for house and agricultural uses) (735.5m² or about 44.9% of the site)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Industrial (Group D)” (“I(D)”) [a maximum plot ratio of 1.6, a maximum site coverage of 80% and a maximum building height of 13m]
- Application** : Proposed Temporary Shop and Services (Vehicle Parts) and Ancillary Storage and Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (vehicle parts) and ancillary storage and office for a period of 3 years at the application site (the Site). According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ use is a Column 2 use under the “I(D)” zone, which requires planning permission from the Town Planning Board (the Board).

The Site is not subject to any previous application. The Site is currently occupied by some structures for storage and office uses (**Plans A-2 and A-4**).

- 1.2 According to the applicant, the proposed development consists of a one-storey structure with building height of 5.2m and total floor area of 972.9m² for retail of vehicle parts, storage and office use. Two car parking spaces and two loading/unloading spaces for light good vehicle will be provided within the Site. The proposed development will be operated from 9:00 am to 7:00 pm, Monday to Saturday. There will be no operation on Sunday and public holidays. The Site is accessible via a local track connecting to Fung Kat Heung Road. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following document:
 - (a) Application Form with plans and supplementary (**Appendix I**) statement received on 7.12.2017
 - (b) Supplementary Information (SI) received on (**Appendix Ia**) 14.12.2017 with revised layout plan
 - (c) Further Information (FI) received on 17.1.2018 (**Appendix Ib**) clarifying the operation details, vehicle types and trip generation of the Site
(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 supplementary statement in **Appendix I**. They can be summarized as follows:

The Site falls within an area zoned “I(D)” on the OZP and the proposed development is in line with the planning intention of the “I(D)” zone. The proposed development is mainly for retails use and to serve the local. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed within the Site.

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. 31) by posting site notice and sending the notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site was being used as storage and office uses. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

5. **Previous Application**

The Site is not subject to any previous application.

6. **Similar Application**

There is a similar application for proposed temporary shop and services (retail store) (Application No. A/YL-KTN/573) in the same “I(D)” zone on the OZP which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 22.9.2017 mainly on the grounds that the temporary approval would not frustrate the long-term planning intention of the “I(D)” zone; the proposed retail store could serve the residents and workers in the locality, and the relevant department has no major adverse comment on the application. Details of the application are summarized in **Appendix II** and the location is shown in **Plan A-1**.

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

7.1 The Site is:

- (a) occupied by some structures for storage and office use; and
- (b) accessible via a local track connecting to Fung Kat Heung Road.

7.2 The surrounding areas are predominately rural in character predominated by residential dwellings/structures, parking of vehicles, agricultural land, kennel, open storage yard, storages, monastery and vacant/unused land:

- (a) to its north are storage/open storage yards, kennel, some residential dwellings/structures and unused land;
- (b) to its east are residential dwellings/structures, a monastery and vacant land;
- (c) to its south are residential dwellings/structures, parking of vehicles, fallow/cultivated agricultural land and unused land; and
- (d) to its west are parking of vehicles, residential dwellings/structures, unused land, storage and storage of aquarium fishes and fallow agricultural land.

8. Planning Intention

The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

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, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises 4 Old Schedule Agricultural Lots (OSAL) and an Old Schedule Mixed Lot. The OSALs are held under the Block Government Lease (BGL) which the OSAL contains the restriction that no structures are allowed to be erected without the prior approval of the Government. For the Old Schedule Mixed Lot No. 640 in D.D. 107 (House and Agricultural) held under the BGL, erection of building is allowed. However, should the development involve any rebuilding, application to his office for approval will be required.
- (b) No permission is given for occupation of Government Land (GL) (about 243m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible to San Tam Road via GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Furthermore, the

applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering point of view.
- (b) Should the application be approved, the following approval condition and advisory clause is recommended:
 - (i) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
 - (ii) The Site is connected to the public road network via a section of a local access road which is not managed by TD. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department is not responsible for the maintenance of the village access road outside the Site.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was a substantiated environmental complaint on air nuisance at Lot 640 in D.D. 107 received in 2017.

- (b) 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 Open Storage and Temporary Uses" issued by the DEP.

Drainage

- 9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
 - (b) Should the application be approved, approval conditions on the submission and implementation of drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning permission

Building Matters

- 9.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) There is no record of approval by the Building Authority for the existing structures at the Site, BD is not in a position to offer comments on their suitability for the use proposed in the application.
 - (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's 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.
 - (d) Before any new building works (including containers/ open

sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD 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.

- (e) 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.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

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

- (a) He has no in-principle objection to the application 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) 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.

Water Supply

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable

government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Electricity

9.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the development from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the 'Code of Practice on Working near Electricity Supply Lines' established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

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

His office has not received any local's comment on the application.

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

- (a) Project Manager/NT West, Civil Engineering and Development Department (PM/NTW, CEDD); and
- (b) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 15.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.1.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The Site proposed for shop and services (vehicle parts) and ancillary storage and office falls within an area zoned “I(D)” which is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. The proposed shop and services use is not entirely in line with the planning intention of the “I(D)” zone. However, it is considered that temporary approval for a period of three years would not frustrate the long-term planning intention of the “I(D)” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding areas which are mixed with residential dwellings/structures, open storage/storage yards, parking of vehicles, a kennel, agricultural land and vacant/unused land. According to the applicant, the proposed shop and services would serve the local in the area. There is a similar application for retail shop use which was approved with conditions by the Committee on 22.9.2017 in the vicinity (**Plan A-1**). Approval of the application is in line with the Committee’s previous decision on similar application.
- 11.3 Concerned departments consulted including DEP, C for T, CE/MN of DSD and D of FS have no objection to or adverse comment on the application. To avoid potential environmental impact, approval conditions restricting the operation hours and type of vehicle are recommended in paragraphs 12.2 (a) to (c). Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to alleviate any potential impact. Technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions (d) and (h) at paragraph 12.2 below.
- 11.4 No public comment was received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary shop and services (vehicle parts) and ancillary storage and office use could be tolerated 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 26.1.2021. 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 exceeding 5.5 tonnes, including container tractors/trailers, as proposed by the applicant, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site 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 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 26.7.2018;
- (f) in relation to (e) 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 26.10.2018;
- (g) the submission of 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 26.7.2018;
- (h) in relation to (g) above, the provision of fire service installations 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 26.10.2018;

- (i) if the above planning condition (a), (b), (c) 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
- (j) if any of the above planning conditions (e), (f), (g) or (h) 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 III**.

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

the development is not in line with the planning intention of the "I(D)" zone which is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements and for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings. 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 plans and supplementary statement received on 7.12.2017
- Appendix Ia** SI received on 14.12.2017

Appendix Ib	FI received on 17.1.2018
Appendix II	Similar application for Shop and Services within the Same “I(D)” Zone on the Kam Tin North Outline Zoning Plan
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2018**