

RNTPC Paper No. A/YL-KTN/727  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 6.11.2020

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/727**

- Applicant** : Mr. Tang Lam Piu represented by R-riches Property Consultants Limited
- Site** : Lots 565 S.A (Part), 640 (Part), 796 (Part), 797 (Part) and 798 (Part) in D.D. 107 and Adjoining Government Land, Fung Kat Heung, Yuen Long
- Site Area** : About 1,647m<sup>2</sup> (including Government land of about 243m<sup>2</sup> (14.8%))
- Lease** : Lot 565 S.A (Part), 796 (Part), 797 (Part) and 798 (Part) in D.D. 107 - Block Government Lease (demised for agricultural use) (902m<sup>2</sup> or about 55.1% of the site)
- Lot 640 (Part) in D.D. 107 - Block Government Lease (demised for house and agricultural uses) (735.5m<sup>2</sup> 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)”)  
[maximum plot ratio of 1.6, maximum site coverage of 80% and maximum building height of 13m]
- Application** : Proposed Temporary Shop and Services (Vehicle Parts) with Ancillary Storage and 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 (vehicle parts) with ancillary storage and office for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ is a Column 2 use in the “I(D)” zone, which requires planning permission from the Town Planning Board (the Board). The Site is subject to a previous application No. A/YL-KTN/582 for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2018. However, the planning permission was

revoked due to non-compliance with approval conditions. The Site is currently occupied by existing structures for storage use (**Plans A-2, A-4a and A-4b**).

- 1.2 According to the applicant, the proposed development involves a single-storey structure with a total floor area of 973m<sup>2</sup> and building height of 5.2m for retail of vehicle parts, and ancillary storage and office uses. Two private car parking spaces and two loading/unloading space for light goods vehicle will be provided within the Site. The operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. Also, no medium or heavy goods vehicles will be allowed to access the Site. The Site is accessible to San Tam Road and Fung Kat Heung Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 Compared with the last approved application (No. A/YL-KTN/582), the current application submitted by the same applicant is the same in terms of use, layout and floor area, except for slight increase in site area from 1,637.5m<sup>2</sup> to 1,647m<sup>2</sup> (+9.5m<sup>2</sup>/ +0.6%).
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with planning statement and plans (**Appendix I**) received on 18.9.2020
  - (b) Further Information (FI) received on 30.10.2020 in (**Appendix Ia**) response to departmental comments  
*[exempted from publication requirement]*

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the planning statement and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed development will not jeopardize the long term planning intention of the “I(D)” zone. There are previous and similar applications for shop and services uses approved in the same “I(D)” zone.
- (b) The proposed use is to provide retail of vehicle parts for nearby locals and vehicle repair workshop in the area. It is not incompatible with the surrounding warehouse and workshop uses.
- (c) The proposed development would not generate adverse traffic, environmental and drainage impacts to the surrounding area. The approval conditions of the last approval were not complied with due to delay of construction works during outbreak of coronavirus and insufficient time for revision of drainage proposal. Upon approval of the application, the applicant will make effort to comply with

the approval conditions/ relevant government regulations related to fire service, drainage, sewerage, environmental and landscape aspects.

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

The applicant is not a “current land owner” of the private land portion of the Site 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 notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the Government Land (GL) portion of the Site, the “Owner’s Consent/Notification” Requirements are not applicable.

**4. Background**

The Site is not subject to active planning enforcement action.

**5. Previous Application**

The Site is subject to a previous application (No. A/YL-KTN/582) submitted by the same applicant for proposed temporary shop and services (vehicle parts) and ancillary storage and office for a period of 3 years. The application was approved with conditions by the Committee on 26.1.2018 mainly on the grounds that temporary approval would not frustrate the long-term planning intention of the “I(D)” zone; the proposed use was not incompatible with the surrounding area; and the relevant department has no adverse comment on the application. While the approval condition on the submission of fire service installations (FSIs) was complied with, the planning permission was revoked in April 2020 due to non-compliance with approval conditions on submission and implementation of drainage proposal and provision of FSIs. Details of the application are summarized in **Appendix II** and its location is shown in **Plan A-1**.

**6. Similar Applications**

There are five similar applications for various temporary shop and services uses within the same “I(D)” zone or straddling the same “R(D)” zone and adjoining “Agriculture” zone, which were all approved with conditions by the Committee between 2018 and 2020 mainly for the reasons that temporary approval would not frustrate the long-term planning intention of the “I(D)” zone; the development was not incompatible with the surrounding land uses; and the relevant departments had no adverse comment on the application. However, one of the planning permissions was revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix III** and their locations 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) occupied by existing structures for storage use; and
- (b) accessible from San Tam Road and Fung Kat Heung Road via a local track.

7.2 The surrounding areas are rural in character predominated by residential structures/ dwellings, warehouse, open storage/ storage yards, parking of vehicles and vacant/unused land (**Plan A-2**):

- (a) to its north, east and south are residential dwellings/structures, parking of vehicles, open storage/ storage yards, warehouse, a monastery and unused land. Two approved applications for temporary shop and services use are to the north and south of the Site; and
- (b) to its west is a large open storage yard.

## **8. Planning Intention**

The planning intention of the “I(D)” zone is primarily for industrial uses that cannot be accommodated in conventional flattened 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 Government Land (GL), Old Schedule Agricultural Lots (OSALs) and an Old Schedule Mixed Lot. The OSALs, namely Lots Nos. 565 S.A, 796, 797 and 798 in D.D. 107, are 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. 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 GL (about 243m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) Should the application be approved, the lot(s) owner(s) will need to apply to his office to permit 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. Furthermore, the applicant has to exclude the GL portion from the Site or apply for direct grant STT for use of the Site. Applications for any of the above 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 rent 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 perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (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 Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Fung Kat Heung Road is not maintained by HyD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.

- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

### **Environment**

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

- (a) The applicant is 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 Sites” issued by DEP.
- (b) There was a substantiated environmental complaint on air nuisance at Lot 640 in D.D. 107 received in 2017.

### **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 proposed development from the public drainage point of view.
- (b) Should the application be approved, the 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 included in the planning approval.

### **Fire Safety**

#### 9.1.6 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 Buildings Ordinance (BO) (Cap.

123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **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 by the Building Authority (BA) 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 BA, they are Unauthorized Building Works (UBW) under the 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 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.
- (d) 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.
- (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) 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.

### **District Officer's Comments**

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

He has not received any locals' comment on the application and he has no comment from departmental point of view.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Project Manager (West), Civil Engineering and Development Department;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Commissioner of Police.

## **10. Public Comment Received During Statutory Publication Period**

On 25.9.2020, the application was published for public inspection. During the three-week statutory publication period, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services (vehicle parts) with ancillary storage and office for a period of 3 years in the "I(D)" zone. 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. Although the proposed shop and services use is not entirely in line with the planning intention of "I(D)" zone, it is considered that temporary approval of the application 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, warehouse and vacant/unused land. According to the applicant, the proposed retail store intends to serve the locals in the area.
- 11.3 Relevant 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 minimize any potential environmental nuisance, approval conditions on restricting the operation hour are recommended in paragraph 12(a) and (b). The applicant will also be advised to adopt the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites". The technical requirement of C for T, CE/MN of DSD and D of FS could be addressed by approval condition in paragraph 12.2.
- 11.4 The Site is subject to a previous application for the same use and submitted by the same applicant. It was approved with conditions by the Committee in 2018, and



revoked in April 2020 due to non-compliance with the approval conditions on the submission and implementation of drainage proposal and provision of FSIs. In the current application, the applicant submitted drainage and FSIs proposals in support of the application and CE/MN of DSD and D of FS have no in-principle objection to the application. Also, the applicant commits to comply with the approval conditions if the current application is approved. Compared with the previous approved application, the current application is the same in terms of use, layout and floor area, except for slight increase in site area (+9.5m<sup>2</sup>/ +0.6%). Sympathetic consideration could be given to the current application. Shorter compliance periods are recommended to monitor the progress of compliance with approval conditions should the Committee decide to approve the current application. Moreover, the applicant will be advised that should he fail to comply with the approval condition again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

11.5 There are five similar applications for various temporary shop and services uses within the same “I(D)” zone which were all approved with conditions by the Committee between 2018 and 2020 (paragraph 6 and **Plan A-1** refer).

11.6 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 has no objection to the proposed temporary shop and services (vehicle parts) with ancillary storage and 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 6.11.2023. The following conditions of approval with shorter compliance period and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of 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 6.2.2021;

- (e) in relation to (d) above, the implementation of 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 6.5.2021;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of 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 6.2.2021;
- (h) in relation to (g) above, the implementation 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 6.5.2021;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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 (d), (e), (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 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 "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. 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. 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**

|                            |  |
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| <b>Appendix I</b>          | Application form with supplementary planning statement and plans received on 18.9.2020 |
| <b>Appendix Ia</b>         | FI received on 30.10.2020  |
| <b>Appendix II</b>         | Previous application covering the Site   |
| <b>Appendix III</b>        | Similar applications within the same “AGR” zone on the Kam Tin North OZP               |
| <b>Appendix IV</b>         | Advisory clauses   |
| <b>Drawing A-1</b>         | Layout Plan  |
| <b>Plan A-1</b>            | Location Plan with Similar Applications  |
| <b>Plan A-2</b>            | Site Plan  |
| <b>Plan A-3</b>            | Aerial Photo   |
| <b>Plans A-4a and A-4b</b> | Site Photos  |

**PLANNING DEPARTMENT  
NOVEMBER 2020**