

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

**APPLICATION NO. A/YL-KTN/741**

- Applicant** : R-riches Property Consultants Limited
- Site** : Lots 670 S.A RP and 670 S.B in D.D.107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
- Site Area** : About 786 sq. m
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan 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 for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of 5 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 vacant with some structures for storage (**Plans A-2 and A-4a to 4b**).
- 1.2 According to the applicant, the development involves one two-storey structure with a total floor area of about 1,136m<sup>2</sup> (plot ratio of about 1.4), site coverage of about 72% and building height of about 13m for shop and services (vehicle parts), ancillary office and ancillary storage of goods. One private car parking space and one loading/unloading space for light goods vehicle will be provided at the Site. The operation hours are between 9:00 a.m. to 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 from Fung Kat Heung Road via a local access. The site layout plan submitted by the applicant is shown on **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form and plans received on 23.11.2020 **(Appendix I)**
- (b) Further Information (FI) received on 14.1.2021 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 application form and FI in **Appendices I to Ia**. They can be summarized as follows:

- (a) The proposed development is on a temporary basis and will not frustrate the long-term planning intention of the “I(D)” zone. The applicant would like to use the Site to operate a shop and services (vehicle parts) business to provide convenience to nearby locals and vehicle workshop in Fung Kat Heung.
- (b) No storage of dangerous goods will be carried out during the approval period. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD). The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding areas.

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

The applicant is not the “current land owner” of the Site but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

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

## 5. **Previous Application**

The Site is not subject to any previous application.

## 6. **Similar Applications**

There are eight similar applications for various temporary shop and services uses within the same “I(D)” zone or straddling the same “I(D)” zone and adjoining “Agriculture” zone which were all approved with conditions by the Committee between 2017 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, two of the planning permissions were revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix II** 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) fenced, vacant with some structures for storage; and
- (b) accessible from Fung Kat Heung Road via a local access.

7.2 The surrounding areas are mainly rural in character predominated by open storages yards, residential structures/dwellings, warehouses and workshop:

- (a) to the east, northeast and southeast are Water Supplies Department’s water supply facility, open storage yards, workshop and vacant / unused land; and
- (b) to the south, west and northwest are residential structures/dwellings, workshops, warehouses and a piece of land subject to planning permission for shop and services use.

## **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 Old Schedule Agricultural Lots 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 lots owners 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. Applications for any of the above will be considered by LandsD acting in the capacity as the 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/NT West, Highways Department (CHE/NTW, HyD):

- (a) Fung Kat Heung Road is not maintained by his department.
- (b) His department 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 the nearby public roads and drains.

### **Environment**

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

No environmental complaint concerning at the Site was received in the past three years. 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 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 of a drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.

### **Fire Safety**

- 9.1.6 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 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 granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
  - (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) 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.

- (c) His detailed comments on unauthorized building works, provision of access, temporary or licenced structures are at **Appendix IV**.
- (d) detailed checking under the BO will be carried out at 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 comments from locals and he has no comments on the application.

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

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

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

On 1.12.2020, the application was published for public inspection. During the three-week statutory publication period, three public comments were received from two individuals and a Yuen Long District Council Member (**Appendices III-a, III-b and III-c**). They object to the application mainly on the grounds that commercial operation in residential area will affect rural living and ecological environment; the building height of the proposed structure should be reduced to 9m to minimise visual impact on the nearby residents; and the applicant has been conducting commercial operation in "I(D)" zone without planning approval.

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

11.1 The application is for proposed temporary shop and services for a period of 5 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 use is not entirely in line with the planning intention of the "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 development is considered not incompatible with the surrounding areas which are intermixed with open storages yards, residential structures/dwellings, warehouses and vacant / unused land. According to the applicant, the proposed use intends to serve the locals and nearby vehicle repair workshop.
- 11.3 Relevant departments consulted including DEP, C for T, CE/MN of DSD and D of FS have no adverse comment on the application. The applicant will be advised to adopt the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses” to minimize any possible environmental nuisance. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (a) to (f).
- 11.4 The Site is not subject to any previous application. There are eight similar applications for various temporary shop and services within the same “I(D)” zone which were all approved with conditions by the Committee between 2017 and 2020 mainly for the reasons as stated in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decision on similar applications.
- 11.5 Three public comments were received during the statutory publication period objecting to the application as set out in paragraph 10 above. In this regard, the departmental comments as well as the planning assessments and considerations 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 proposed temporary shop and services for a period of 5 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 5 years until 22.1.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) the submission 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 22.7.2021;
- (c) in relation to (b) above, the implementation of 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 22.10.2021;

- (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 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 22.7.2021; and
- (f) in relation to (e) above, the implementation of fire service installations proposal 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 22.10.2021;
- (g) if any of the above planning conditions (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 conditions (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 attached 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 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**

<b>Appendix I</b>	Application form and plans received on 23.11.2020
<b>Appendix Ia</b>	FI received on 14.1.2021
<b>Appendix II</b>	Similar applications within the same “I(D)” zone on the Kam Tin North OZP
<b>Appendices III-a, III-b and III-c</b>	Public comments received during the statutory publication period
<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>Plan A-4a to A-b</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2021**