

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

**APPLICATION NO. A/YL-KTS/809**

- Applicant** : TRANS-CONCEPT LIMITED represented by R-Riches Property Consultants Limited
- Site** : Lot 1165 (Part) in D.D.106, Pat Heung, Yuen Long
- Site Area** : About 777 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15  
[Draft Kam Tin South OZP No. S/YL-KTS/14 at the time of submission. The zoning of the application site remains unchanged on the approved OZP.]
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Shop and Services (Real Estate Agency) 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 (real estate agency) for a period of 3 years. The Site is not the subject of any previous application and is currently vacant and covered with vegetation (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the development involves 3 one to two-storey structures with a building height of about 3 to 6m and a total floor area of about 297m<sup>2</sup> for real estate agency, fire service water tank and pump room uses. The operation hours will be between 10 a.m. and 5 p.m. daily including public holidays. Four parking spaces for private cars will be provided for the staff within the Site. The Site is accessible from Kam Sheung Road via a local track. The site layout plan, location plan and landscape plan submitted by the applicant are shown in **Drawings A-1 to A-3**.

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

- (a) Application Form with supplementary information (**Appendix I**) received on 9.11.2018
- (b) Further Information (FI) received on 30.11.2018 in (**Appendix Ia**) response to departmental comments
- (c) FI received on 18.12.2018 in response to (**Appendix Ib**) departmental comments
- (d) FI received on 27.12.2018 in response to (**Appendix Ic**) departmental comments

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

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

- (a) The proposed temporary real estate agency will provide real estate agency service for the residents nearby and is compatible with surrounding land use.
- (b) The Site is located within 150m from the nearby bus stops. Visitors will access the Site by public transport. There will be no parking space provided for visitors and no loading/unloading space. Traffic impact will be minimized.
- (c) The applicant will strictly follow the proposed operation hours. The proposed development and the lighting signage will not be operated outside operation hours to minimize nuisance to the surrounding areas.
- (d) The applicant will comply with the conditions as required by the concerned departments on drainage, fire service installations (FSIs) and landscape aspects after planning permission has been obtained.

## **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 notice to Pat Heung Rural Committee by registered post. 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 Application**

The Site is not the subject of any previous application.

6. **Similar Applications**

- 6.1 There are 9 similar applications (No. A/YL-KTS/495, 497, 513, 608, 619, 649, 704, 729, 742) for temporary shop and services (real estate agency) use for a period of 3 years within the same “AGR” zone (some straddling the adjoining zones on the OZP). Details of the applications are summarized in **Appendix II** and the locations of the application sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-KTS/495 was approved with conditions by the Committee on 16.7.2010 for the reasons that temporary approval would not frustrated the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant departments had no adverse comment; and the technical requirements of relevant departments could be addressed by appropriate approval conditions. However, the permission was revoked on 16.8.2012 due to non-compliance with approval conditions.
- 6.3 Applications Nos. A/YL-KTS/513, 619 and 742 on one site straddling the “AGR” and adjoining “Village Type Development” (“V”) zones were approved with conditions by the Committee on 10.12.2010, 22.11.2013 and 23.6.2017 respectively for similar reasons as stated in paragraph 5.2 above.
- 6.4 Applications No. A/YL-KTS/497, 608, 649, 704 and 729 on one site straddling the “AGR” and adjoining “Residential (Group C)1” (“R(C)1”) zones were approved with conditions by the Committee on 30.7.2010, 11.10.2013, 17.10.2014, 27.5.2016 and 17.2.2017 respectively for similar reasons as stated in paragraph 5.2 above. Planning permissions for Application No. A/YL-KTS/608, 649 and 704 were revoked on 17.10.2014, 17.14.2015 and 27.8.2016 respectively due to non-compliance with approval conditions.

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

7.1 The Site is:

- (a) fenced, currently vacant and covered by vegetation; and
- (b) accessible via a track connecting to Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character occupied by a residential development, open storage yards, warehouses, vehicle repairing workshop, plant nursery and vacant/unused land. The open storage yards, warehouses and workshop are suspected unauthorized developments (UDs) subject to enforcement action by the Planning Authority:

- (a) to its west and northwest are an open storage yard, vacant land, and a residential development namely, Seasons Palace, within “R(C)1” zone;
- (b) to its east and north are open storage yards, warehouses, vehicle repairing workshop and a residential dwelling/structure; and
- (c) to its south and south east across Kam Sheung Road are open storage yards, plant nursery, and a residential structure/dwelling.

## **8. Planning Intention**

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## **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 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 is accessible from Kam Sheung Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within the Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed relevant airfield height limit within the SKAHRA.

- (d) Should planning approval be given to the planning 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, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Excepted Building(s) will be considered or allowed. 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(s) will be approved. If such application 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 LandsD.

### **Traffic**

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

- (a) He has no comment on the application.
- (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 his department. The land status of the local access road should be checked with the Lands Department. 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) His department does not and will not maintain any access connecting the Site and Kam Sheung Road. The applicant should be responsible for his own access arrangement.
- (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) 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” (the COP) issued by his department to minimise any potential environmental nuisances.
- (b) If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirement of EPD’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”.

## Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) Compared the aerial photo of 1998 to the latest aerial photo of 2018, there is no significant change in the rural landscape characters where the Site is located. The surrounding area comprises of temporary structures, car parks and scatter tree groups. The proposed use is considered not incompatible with the landscape setting in proximity.
- (c) According to the site visit conducted on 22.11.2018, four existing trees in fair to good condition were found within the Site, two of them were in significant size (i.e. *Mangifera indica* and *Celtis sinensis* with a DBH of 1m and 0.8m respectively). According to the proposed layout in the FI dated 18.12.2018, all existing trees will be preserved.
- (d) As the Site is sandwiched between the existing temporary structures at adjacent lots and the existing mature tree at the south-western side of the Site has provide adequate landscape buffer to the local road, should the application be approved, approval condition requiring the existing trees within the Site shall be maintained in healthy condition at all time during the approval period should be included in the planning approval.
- (e) His detailed comments are at **Appendix III**.

### **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 proposed development from the public drainage point of view.
- (b) Should the application be approved, the conditions requiring the submission of a drainage proposal and implementation and maintenance of the 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.

### **Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise, they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are 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 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) 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) If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Agriculture**

9.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

The Site falls within “AGR” zone. Agricultural infrastructures such as road access and water source are available. As the Site processes a potential for agricultural rehabilitation, he does not support the application from agricultural point of view.

### **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 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.

### **Project Interface**

9.1.10 Comments of the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

The Site falls within one of the potential housing sites identified in the Land Use Review for Kam Tin South and Pat Heung.

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

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

He has not received any comments from locals upon close of consultation and he has no particular comment on the application.



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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Commissioner of Police (C of P).

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

On 16.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.12.2018, six public comments were received from nearby residents and individuals (**Appendices IV-1 to IV-6**). All the commenters object to the application mainly on the grounds that the proposed use will disturb the neighbourhood and cause nuisance including signboard lighting, noise, illegal postings of advertisement, rubbish, increase in vehicle and human traffic and illegal parking; interrupts the privacy of the nearby residents; no demand for real estate agency in the vicinity; the Site has been used for illegal operations; and the Site is not suitable for the proposed use.

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

11.1 The application is for proposed temporary shop and services (real estate agency) at the Site zoned “AGR”. The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Although the proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application as the Site processes a potential for agricultural rehabilitation, it is considered that approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “AGR” zone.

11.2 According to the applicant, the proposed real estate agency is to serve the nearby residents. The proposed use is considered not incompatible with the surrounding land uses which are predominated by residential development, open storage yards, warehouses, vehicle repairing workshop, and vacant/unused land.

11.3 In view of its scale (about 777 m<sup>2</sup> in area and 297 m<sup>2</sup> of total gross floor area), it is unlikely that the proposed temporary shop and services would generate significant adverse traffic and landscape impacts and environmental nuisance to the nearby residential development. Relevant departments consulted including DEP, C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS (except DAFC) have no adverse comment on the application. To minimize the possible environmental nuisance generated by the proposed use, approval

conditions restricting the operation hours and the type of vehicles are recommended in paragraph 12.2 (a) and (b) below. 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. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact. The technical requirements of C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (i).

- 11.4 There are 9 similar applications (No. A/YL-KTS/495, 497, 513, 608, 619, 649, 704, 729, 742) for temporary shop and services (real estate agency) within the same “AGR” zone, which were all approved with conditions by the Committee from 2010 to 2017 for 3 years for similar reasons as stated in paragraph 6 above.
- 11.5 Six public comments were received during the statutory publication period mainly on the ground that the real estate agency would have adverse impact on the nearby residents as set out in paragraph 10 above. In this regard, relevant departments including C for T and DEP have no objection to/adverse comments on the application. The planning considerations and assessments above are also relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary shop and services (real estate agency) 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 4.1.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, 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;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (d) existing trees within the Site shall be maintained at all times during the planning approval period;
- (e) 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 4.7.2019;
- (f) in relation to (e) 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 4.10.2019;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 4.7.2019;
- (i) in relation to (h) 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 4.10.2019;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning conditions (e), (f), (h) or (i) 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; and
- (l) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory Clauses

The recommended advisory clauses are 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 "AGR" zone which is to retain and safeguard good agricultural land for

agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification has been given in the submission for a departure from the planning intention, even on 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 with supplementary information received on 9.11.2018
<b>Appendix Ia</b>	FI received on 30.11.2018 in response to departmental comments
<b>Appendix Ib</b>	FI received on 18.12.2018 in response to departmental comments
<b>Appendix Ic</b>	FI received on 26.12.2018 in response to departmental comments
<b>Appendix II</b>	Similar applications within the same “AGR” zone on the Kam Tin South OZP
<b>Appendix III</b>	Detailed Departmental Comment from CTP/UD&L, PlanD
<b>Appendix IV-1 to IV-6</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan
<b>Drawing A-2</b>	Site Layout Plan

<b>Drawing A-3</b>	Landscape Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2019**