

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-PH/842

- Applicant** : Era Smart Limited represented by R-riches Property Consultants Limited
- Site** : Lots 1584 S.A ss.2 and 1584 S.A RP in D.D.111, Kam Tin Road, Pat Heung, Yuen Long
- Site Area** : About 407 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”)
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency, Car Beauty Product Retail and Auto Parts Retail) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary shop and services (real estate agency, car beauty product retail and auto parts retail) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ is a Column 2 use within the “OS” zone, which requires planning permission from the Town Planning Board (the Board). The Site is fenced, paved and occupied by a 2-storey compound with storage and office use.
- 1.2 The Site is the subject of four previous applications. The last application for the same applied use for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2017. All the approval conditions have been complied with and the planning permission is valid until 28.7.2020.
- 1.3 According to the applicant, the proposed development involves 5 two-storey structures (about 7.2m) forming a compound for real estate agent office, vehicle beauty product retail store, auto parts retail store and a rain shelter with total floor area of about 181.8m². Four parking spaces for private cars are provided on-site.

The operation hours are between 7:00a.m. and 9:00p.m. daily. The Site is accessible via Kam Tin Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 When compared with the last approved application No. A/YL-PH/750, the current application submitted by the same applicant is the same in terms of applied use, site area/boundary, number of structures, car parking spaces and floor area.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary planning statement received on 4.5.2020 **(Appendix I)**
 - (b) Further Information (FI) dated 8.6.2020 providing responses to departmental comments* **(Appendix Ia)**
 - (c) FI dated 18.6.2020 providing responses to departmental comments* **(Appendix Ib)**

**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 supplementary planning statement at **Appendix I**, and are briefly summarized as follows:

- (a) The proposed development is on a temporary basis and will not frustrate the long-term planning intention. It is intended to serve the surrounding vehicle selling shops and locals. The development would help meet the acute local demand for real estate agency service in the area and benefit the public.
- (b) The proposed development is in line with Town Planning Board Guidelines No. 34C in that all approval conditions of the last approved application has been complied with. Approval of the current application would not set an undesirable precedent.
- (c) The proposal will not create significant adverse traffic, environmental, landscape and drainage impacts on the surrounding area. Existing drainage facilities, landscaping and fire services installations will be maintained.
- (d) Due to the coronavirus pandemic, the shops at the Site are closed temporarily. The 1/F is used for backup office for the shops.

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

The applicant is not the “current land owner” 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 Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

Town Planning Board Guidelines for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is currently not subject to any enforcement action.

6. **Previous Applications**

- 6.1 The Site involves four previous applications for various open storage, property agency and shop and services uses. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Applications A/YL-PH/143 and 234 for open storage of vehicles/vehicle parts (the latter with ancillary vehicle and vehicle parts trading) covering part of the Site and adjoining area were approved with conditions by the Committee in 1997 and 1998 respectively mainly on the considerations that the development was in line with the planning intention of the "OS" zone and complies with the Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses under Section 16 of Town Planning Ordinance" in that it was compatible with the surrounding open storage yards and workshop uses.
- 6.3 Applications No. A/YL-PH/144 for temporary property agency office and No. A/YL-PH/750 for the same use as the current application were approved with conditions by the Committee in 1997 and 2017 for a period of 1 year and 3 years respectively. They were approved mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the "OS" zone; the applied use was not incompatible with the surrounding land uses; and relevant departments consulted had no adverse comments. All the approval conditions of the last approved application (No. A/YL-PH/750) have been complied and the planning permission is valid until 28.7.2020.

7. **Similar Application**

There is one similar application (No. A/YL-PH/807) within the same "OS" zone located to the further west of the Site for proposed temporary shop and services with ancillary facilities for 5 years. It was approved with conditions by the Committee in 2019 mainly on the considerations that temporary approval would not jeopardize the long-term planning intention; the proposed development was not incompatible with the surrounding areas;

and relevant departments consulted had no adverse comment on the application. Details of the application are summarized in **Appendix IV** and its location is shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-1a to A-4)

8.1 The Site is:

- (a) fenced, paved and currently occupied by a 2-storey compound with storage and office use; and
- (b) directly accessible from Kam Tin Road.

8.2 The surrounding area is rural in character intermixed with open storage yards, workshops, car services, residential dwellings/structures, police station and vacant land. Some of them are suspected unauthorized development subject to enforcement action by Planning Authority:

- (a) to its west and north are open storage yards, car services, vehicle repair workshops, residential dwellings/structures and vacant land;
- (b) to its east across Fan Kam Road is Pat Heung Police Station; and
- (c) to its south across Kam Tin Road are open storage yards, and residential dwellings/structures including Fung Ying Villa and Green Villa are located to the further south and southeast respectively.

9. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of 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) Within the Site, the private lot (1584 S.A in D.D. 111) is currently covered by Short Term Waiver (STW No. 351) for “Grinding Mill”.
- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW 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 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

10.1.2 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.

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

- (a) If the proposed run-in/out is agreed by the Transport Department, the applicant should provide the run in/out at Kam Tin Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) The applicant shall be 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 is no environmental complaint concerning the Site received by DEP in the past three years.

Landscape

10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape (CTP/UD&L):

- (a) She has no objection to the application from landscape planning perspective.
- (b) Based on the aerial photo taken in 2019, the Site is situated in an area of rural landscape character comprising of scattered tree groups, temporary structures and village houses. Considering the nature and the scale of the application, the applied use is considered not entirely incompatible with the surrounding environment.
- (c) With reference to the site visit in May 2020, the Site is occupied with temporary structures. Existing trees and landscape plantings are in acceptable condition within the Site. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Further significant adverse impact on landscape resources due to the development is not anticipated.
- (d) Should the application be approved, approval condition on maintaining the existing trees and landscape plantings within the Site in a healthy condition at all times during the approval period should be included.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Presumably, the applicant would continue to provide and maintain the same drainage facilities as those implemented under previous application No. A/YL-PH/750.

- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-PH/750 and the submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority 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) 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

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

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

District Officer's Comments

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

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

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

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

11. Public Comment Received During the Statutory Publication Period

On 12.5.2020, the application was published for public inspection. During the three-week statutory publication period, one comment (**Appendix V**) was received from the Green Villa Mutual Aid Committee. The comment objects to the application mainly on the ground that the applied use would pose adverse traffic impacts on the area since the Site is located near the junction of Kam Tin Road and Fan Kam Road.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for temporary shop and services (real estate agency, car beauty product retail and auto parts retail) for a period of 3 years at the Site which falls within "OS" zone. The planning intention of the "OS" zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. Although the applied use is not entirely in line with the planning intention of the "OS" zone, temporary approval of the application would not frustrate the long-term planning intention of the "OS" zone.

12.2 The applied use is considered not incompatible with the surrounding area which is rural in character intermixed with open storage yards, workshops, car services,

residential dwellings/structures, police station and vacant land.

- 12.3 The application is in line with the TPB PG-No. 34C in that previous approval for the same applied use was granted at the Site in 2017 and all approval conditions of the last approved application (No. A/YL-PH/750) have been complied with. The current application submitted by the same applicant is the same as the last application in terms of applied use, site boundary and area, number of structures, car parking spaces and floor area. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant departments consulted have no adverse comment on the application. To minimize the possible environmental nuisance on the surroundings, approval condition restricting the operation hours is recommended in paragraph 13.2 (a) below. 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”. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (b) to (f).
- 12.5 The Site involves four previous applications of which two for temporary property agency office and shop and services were approved with conditions by the Committee in 1997 and 2017. There is also one similar application for proposed temporary shop and services with ancillary facilities approved with conditions by the Committee in 2019. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 One public comment was received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the temporary shop and services (real estate agency, car beauty product retail and auto parts retail) for a period of 3 years.
- 13.2 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, and be renewed from 29.7.2020 to 28.7.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 9:00p.m. and 7:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;

- (c) the existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a run-in/out proposal at Kam Tin Road within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Board by 29.1.2021;
- (f) in relation to (e) above, the implementation of the run-in/out proposal at Kam Tin Road within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Board by 29.4.2021;
- (g) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Board by 29.10.2020;
- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) if any of the above planning condition (a), (b), (c), (d) or (h) 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 condition (e), (f) or (g) 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.

[The above planning conditions are largely the same as those under planning permission of previous Application No. A/YL-PH/750, except change of those on run-in/out, landscape, drainage and FSIs based on the comments of CHE/NTW of HyD, CTP/UD&L of PlanD, CE/MN of DSD and D of FS respectively].

- 13.3 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 "OS" zone, which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form with supplementary information received on 4.5.2020
Appendix Ia	FI dated 8.6.2020
Appendix Ib	FI dated 18.6.2020
Appendix II	Relevant extracts of TPG PG-No. 34C
Appendix III	Previous applications covering the Site
Appendix IV	Similar application within the same “OS” zone on the Pat Heung OZP
Appendix V	Public comment received during the statutory publication period
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2020**