

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

**APPLICATION NO. A/YL-KTS/841**

<b><u>Applicant</u></b>	: Wang Lee Realty Development Limited represented by Goldrich Planners and Surveyors Limited
<b><u>Site</u></b>	: Lot 1486 S.C RP (Part) in D.D 106 and Adjoining Government Land, Kam Sheung Road, Kam Tin South, Yuen Long
<b><u>Site Area</u></b>	: About 185m <sup>2</sup> (including Government Land of about 9m <sup>2</sup> (about 5%))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	: 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 temporary shop and services (real estate agency) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “V” zone which requires permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is subject to three previous applications for temporary open storage and real estate agency. The last application No. A/YL-KTS/ 650 for the same applied use as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2014. All the approval conditions had been complied with and the permission lapsed on 18.10.2017.

- 1.3 According to the applicant, three one-storey structures with a total floor area of about 73.7m<sup>2</sup> and building height of 2.7m and 3.7m are erected at the Site for office and open shed uses. One parking space for private car is provided within the Site. The operation hours are between 9:00 a.m. and 9:00 p.m. daily. The Site is connected to Kam Sheung Road to the west via a short stretch of local track. The location plan, site layout plan, tree preservation proposal and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4**.
- 1.4 When compared with the last approved application No. A/YL-KTS/650, the current application is for the same applied use, but with reduced site area (from 203.32m<sup>2</sup> to 185m<sup>2</sup> / - 18.32m<sup>2</sup> / -9%), and increased number of structure (+1 structure) and total floor area (from 62.92m<sup>2</sup> to 73.7m<sup>2</sup> / + 10.78m<sup>2</sup> / +17%).
- 1.5 In support of the application, the applicant has submitted the following documents
- (a) Application Form with plans and planning statement received on 21.1.2020 **(Appendix I)**
  - (b) Further Information (FI) received on 4.3.2020 in response to departmental comments **(Appendix Ia)**  
*(exempted from publication requirement)*
  - (c) FI received on 12.3.2020 in response to departmental comments **(Appendix Ib)**  
*(exempted from publication requirement)*
  - (d) FI received on 16.3.2020 in response to departmental comments **(Appendix Ic)**  
*(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 in **Appendices I and Ic**. They can be summarized as follows:

- (a) There are a lot of new residential developments in the area, and the proposed development can serve the local demand for real estate agency services.
- (b) The proposed development with 1-storey high structures is compatible with the surrounding area, which comprises village houses, agricultural land and petrol filling station.
- (c) The applicant has complied with all the approval conditions under the previous planning permission.
- (d) The proposed development would not generate adverse visual, landscape, drainage and traffic impacts.

- (e) Approval of the current application is in line with previous decisions made by the Committee as the same use had been approved at the Site before and there is no change in circumstances.

### 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 notice and sending notice to the Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the ‘Owner’s Consent / Notification’ requirements are not applicable.

### 4. **Background**

The Site is currently not subject to any outstanding enforcement case.

### 5. **Previous Application**

- 5.1 The Site is subject to three previous applications (No. A/YL-KTS/242, 546 and 650). Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-KTS/242 for proposed temporary open storage of scrap metal and vehicles for disposal, car breaking and stripping for a period of 3 years was rejected by the Committee in 2001 on the grounds that the proposed development was not in line with the planning intention of the “V” zone; it was not compatible with the surrounding village settlements; and approval of the application would set an undesirable precedent.
- 5.3 Application Nos. A/YL-KTS/546 and 650 for the same applied use as the current application (the latter submitted by the same applicant as the current application) were approved with conditions by the Committee in 2011 and 2014 respectively for 3 years mainly for the reasons that the proposed development was of a relatively small scale and relevant departments had no adverse comment; approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “V” zone; and the technical concerns could be addressed by appropriate approval conditions. All the approval conditions of the last application No. A/YL-KTS/650, including those related to landscape, drainage and fire safety aspects had been complied with, and the planning permission lapsed on 18.10.2017.

## 6. Similar Applications

- 6.1 There are five similar Applications (No. A/YL-KTS/513, 542, 619, 651 and 742) for temporary real estate agency within the same “V” zone or straddling the adjacent “Agriculture” (“AGR”) zone. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1a**.
- 6.2 All the similar applications were approved with conditions by the Committee between 2010 and 2017 on similar considerations that temporary approval would not jeopardize the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant departments had no adverse comment; and the technical concerns could be addressed by appropriate approval conditions. However, applications No. A/YL-KTS/542 and 651 were revoked in 2012 and 2016 respectively due to non-compliance of approval conditions.

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

- 7.1 The Site is:
- (a) currently paved and used for the applied use without valid planning permission; and
  - (b) accessible via a short stretch of local track from Kam Sheung Road to its west.
- 7.2 The surrounding areas are rural in character intermixed with residential structures/dwellings, open storage/storage yards, warehouse, parking of vehicles, a petrol filling station, fallow agricultural land and vacant/unused land. Some of the open storage/storage yards and parking of vehicles are suspected unauthorized development subject to enforcement action by the Planning Authority (**Plan A-2**):
- (a) to its north, east and southeast are residential structures / dwellings, parking of vehicles, a real estate agency with valid planning permission, vacant / unused land, open storage / storage yards and fallow agricultural land; and
  - (b) to its south and southwest across Kam Sheung Road are residential structures / dwellings, vacant / unused land, storage yards and a petrol filling station.

## 8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for

development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

## **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) and 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) No permission is given for occupation of GL (about 9m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without the Government's prior approval is not allowed.
- (c) Lot No. 1486 S.C RP (portion) in D.D. 106 within the Site is currently covered by Short Term Waiver (STW) No. 4956 to permit structures erected thereon for the purpose of "Temporary Shop and Services (Real Estate Agency)".
- (d) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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 either exclude the GL portion from the Site or apply for a 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 LandsD.

- (e) There is no Small House application approved or being processed at the Site.

### **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, 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 the Transport Department. The land status of the local access road should be checked with 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) HyD is not / shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

### **Environment**

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

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 to minimize any potential environmental nuisance.

## **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 development from public drainage point of view, and has no adverse comment on the submitted drainage proposal.
- (b) The applicant should be reminded of the following:
  - (i) the applicant should implement the drainage facilities on site in accordance with the agreed drainage proposal;
  - (ii) the applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of drainage or nuisance caused by a failure of the drainage system;
  - (iii) the development would neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas; and
  - (iv) the applicant should consult DLO/YL and seek consent from relevant lot owners for any works to be carried out outside his lot boundary before commencement of the drainage works.
- (c) Should the application be approved, approval conditions on implementation and maintenance of the accepted 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 in-principle objection to the proposal 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 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 FSIs 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 (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) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to offer comment on their suitability for the use related to the application.
- (b) The applicant should observe the following requirements:
  - (i) If the existing structures are erected on leased land without approval of the BD, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under application;
  - (ii) Before any new building works (including store rooms, kitchens, offices, toilets and open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BA should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (iii) For UBW erected on leased land, enforcement action may be taken by the BA 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;
  - (iv) 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 respectively; and
  - (v) 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 Building



(Planning) Regulation at the building plan submission stage.

### **Project Interface**

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

- (a) He has no objection to the application.
- (b) The Site has interface with CEDD Contact No. YL/2017/01 – Site Formation and Infrastructure Works for Development in Kam Tin, Yuen Long – Advance Works. The applicant shall liaise with his office for coordination before commencement of any works in the area, if any.

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

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

His office has not received any local's comments upon close of consultation and he has no comment on the application.

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

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

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

On 4.2.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

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

11.1 The application is for a temporary shop and services (real estate agency) for a period of 3 years at the Site zoned "V". The planning intention of the "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development

of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “V” zone.

- 11.2 The applied use is considered not incompatible with the surrounding areas, which are rural in character intermixed with residential structures/dwellings, a petrol filling station, fallow agricultural land and vacant/unused land. According to the applicant, the real estate agency is to meet the local demand for real estate agency services.
- 11.3 The applied use involves 3 one-storey structures and the Site is abutting Kam Sheung Road. Significant adverse environmental, traffic and drainage impacts are not anticipated. Relevant departments consulted including DEP, C for T, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize the possible environmental nuisance, approval condition restricting the operation hours is recommended in paragraph 12.2(a) below. The applicant will also 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”. Technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by approval conditions (b) to (f) in paragraph 12.2 below.
- 11.4 The Site was involved in 2 previous applications for temporary real estate agency, which were approved with conditions by the Committee in 2011 and 2014 as mentioned in paragraph 5.3 above. The applicant has complied with all the approval conditions including those related to landscape, drainage and fire safety under the last permission which lapsed on 18.10.2017. There are also 5 similar applications for temporary real estate agency within the same “V” zone (including one to the immediate north of the Site), which were all approved with conditions by the Committee between 2010 and 2017 as mentioned in paragraph 6.2 above. Approval of the current application is in line with the Committee’s previous decision.
- 11.5 No public comment was received during the statutory public inspection period.

## **12. Planning Department’s View**

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the temporary shop and services (real estate agency) 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 20.3.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 9:00p.m. and 9:00a.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 implementation of the accepted 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 20.9.2020;
- (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 20.9.2020;
- (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 20.12.2020;
- (g) if any of the above planning condition (a), (b) 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 condition (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 There is no strong reason to recommend rejection of the application.

**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 planning statement received on 21.1.2020
- Appendix Ia** FI received on 4.3.2020
- Appendix Ib** FI received on 12.3.2020
- Appendix Ic** FI received on 16.3.2020
- Appendix II** Previous applications
- Appendix III** Similar applications
- Appendix IV** Advisory Clauses
- Drawing A-1** Location Plan
- Drawing A-2** Layout Plan
- Drawing A-3** Tree Preservation Proposal
- Drawing A-4** Drainage Proposal
- Plan A-1a** Location Plan with Similar Applications
- Plan A-1b** Previous Applications Plan
- Plan A-2** Site Plan
- Plan A-3** Aerial Photo

**Plan A-4**      Site Photos

**PLANNING DEPARTMENT  
MARCH 2020**