

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/271

<u>Applicant</u>	Access Mate (Far East) Limited represented by R-riches Property Consultants Limited
<u>Site</u>	Lot 1640 S.A (Part) in D.D. 114, Shek Kong, Yuen Long
<u>Site Area</u>	About 597m ²
<u>Lease</u>	Tai Po New Grant No. 2998 (demised for agricultural use)
<u>Plan</u>	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	“Residential (Group D)” (“R(D)”) [a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
<u>Application</u>	Proposed Temporary Shop and Services (Metalware Retail Shop) for a Period of 3 Years (with Filling of Land)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary ‘shop and services’ use (metalware retail shop) with filling of land at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “R(D)” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). Filling of land by 0.2m is proposed at most part of the Site (about 506 m², equivalent to about 85% of the Site) to raise the site level from 50.8 mPD to 51 mPD for the proposed structures and circulation purpose (**Drawing A-2**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “R(D)” zone and filling of land for the said use also requires planning permission. The Site is currently vacant, fenced off and covered by grass with four trees.
- 1.2 According to the applicant, the site area is about 597m². Three 1-2 storey structures (with building heights of about 3.5-7m and a total non-domestic floor area of about 228m²) are proposed for the proposed metalware retail shop and fire service water tank/pump (**Drawing A-1**). The Site is accessible via a local track from Kam Sheung Road (**Plan A-1**). Three private car parking spaces, one loading/unloading space for light goods vehicle and manoeuvring space are proposed on site. The

opening hours of the proposed retail shop are 10:00 a.m. to 5:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. There are a total of four existing trees within the Site. The proposed development does not involve any felling of existing trees on site, and tree protection zones with soiled ground (without land filling) (about 91 m², equivalent to about 15% of the Site) will be provided for the trees (**Drawing A-2**). The layout plan, paved area plan, landscape and tree preservation plan, and swept path analysis plan submitted by the applicant are at **Drawings A-1 to A-4**.

- 1.3 The Site is the subject of a previous application (No. A/YL-SK/251) for the same applied use for a period of 3 years (but not involving filling of land) by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 19.7.2019. The validity of the planning permission is until 19.7.2022. The current application is same as the previous application in terms of site area, layout, proposed structures as well as number of car parking and loading/unloading spaces. The only difference is the proposed filling of land by 0.2m at 85% of the Site under the current application.
- 1.4 On 13.12.2019, the Committee agreed to the applicant's request to defer making a decision on the application for two months in order to allow time for the applicant to prepare further information (FI) to address departmental comments. On 4.2.2020, the applicant submitted FI in response to the departmental comments.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 1.11.2019 **(Appendix I)**
 - (b) Further Information (FI) dated 4.2.2020 **(Appendix Ia)**
(exempted from publication)
 - (c) FI dated 6.3.2020 **(Appendix Ib)**
(exempted from publication)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ib** and are briefly summarized as follows:

- For filling of land*

 - (a) The proposed land filling is required for the purpose of site formation for the proposed structures and circulation spaces.
 - (b) Tree protection zone of 6m (W) x 6m (L) will be provided around each tree at the Site, and filling of land will not be carried out within the said protection zone for healthy tree growth. In addition, maneuvering of vehicles will not encroach into the tree protection zones of existing trees. Kerbs are also provided to prevent trees from damaging due to movement of vehicle within the Site (**Drawings A-3 and A-4**).
- For proposed development*

 - (c) The proposed development is intended to serve the neighbourhood's need for purchasing metalware products such as screw and water pipes. It is anticipated that there will be around 5-8 customers visiting the Site every day, and there would be 5

staff on site to serve the customers.

- (d) As the rent for the available sites along Kam Sheung Road has gradually increased, the applicant finds it difficult to continue the business there and therefore intends to use the Site which is a more remote site away from Kam Sheung Road.
- (e) The proposed development is on a temporary basis for a period of 3 years and therefore will not jeopardize the long-term planning intention of the “R(D)” zone.
- (f) The proposed development is generally not incompatible with the surrounding developments/uses within the “R(D)” zone. No workshop/manufacturing activities will be carried out within the Site.
- (g) There is one recently approved application (No. A/YL-SK/251) for the same applied use for a period of 3 years at the Site. In addition, there is one similar application (No. A/YL-SK/248) for a temporary retail shop for hardware groceries use within the same “R(D)” zone approved by the Committee. Approval of this application would not set an undesirable precedent.
- (h) The Site is accessible via a local track from Kam Sheung Road. Only three private car parking spaces and one loading/unloading space for light goods vehicle will be provided at the Site in order to minimize the adverse traffic impact to the surrounding areas. Besides, adequate space for manoeuvring of vehicles will be provided at the Site to avoid queuing of vehicles onto the local track outside the Site.
- (i) The applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department (EPD) and and Practice Note for Professional Persons ProPECC PN 5/93 “Drainage Plans Subject to Comment by the EPD” in order to minimize any possible environmental nuisances to the surrounding areas.

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

The applicant is the sole current land owner of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Application**

- 5.1 The Site involves one previous application (No. A/YL-SK/251) for the same applied use submitted by the same applicant but without filling of land. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 The above application was recently approved with conditions by the Committee for a period of 3 years on 19.7.2019 on the considerations that the development would not

jeopardize the long-term planning intention of the “R(D)” zone; it was not incompatible with the surrounding environment; relevant Government departments consulted had no adverse comment on the application; and approval of the application was in line with the previous decision of the Committee on the similar application.

6. Similar Application

- 6.1 There is one similar application (No. A/YL-SK/248) for shop and services (retail shop for hardware groceries) within the same “R(D)” zone on the OZP, and there is no similar application for filling of land within the same “R(D)” zone. Details of the similar application are summarized at **Appendix III** and its location is shown in **Plan A-1**.
- 6.2 The similar application was recently approved with conditions by the Committee for a period of 3 years on 17.5.2019 based on the considerations that the development would not jeopardize the long-term planning intention of the “R(D)” zone; it was not incompatible with the surrounding environment; and Government departments consulted generally had no adverse comment on the application.

7. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4)

- 7.1 The Site is:
 - (a) vacant, fenced off and covered by grass with four trees at the southwestern periphery; and
 - (b) is accessible via a local track of about 450m to its northwest from Kam Sheung Road.
- 7.2 The surrounding areas are predominantly rural in character with some domestic dwellings/structures, fallow farmland, open storage/storage yards and vacant/unused land. The open storage yards are suspected unauthorised development subject to enforcement action:
 - (a) to its north are some domestic dwellings/structures, and to its further north are an open storage of construction materials intermixed with domestic dwellings/structures and vacant/unused land;
 - (b) to its immediate east are some domestic dwellings/structures, and to its further east are a nullah and an open storage of construction machinery;
 - (c) to its south and southwest off the local track are an open storage of construction materials and unused land; and
 - (d) to its further west and northwest are vacant/unused land and a few domestic dwellings/structures.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Town Planning Board (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 of LandsD):

- (a) the Site comprises Lot 1640 S.A (Part) in D.D. 114 held under Tai Po New Grant No. 2998 for agricultural purpose;
- (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; and
- (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 Exempted 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 will be approved. If such application(s) 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) having regard to the FI (**Appendix Ia**), 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; and
- (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 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 of HyD):

- (a) HyD is not and will not be responsible for the maintenance of any access connecting the Site with Kam Sheung Road; and
- (b) adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L of PlanD):

- (a) he has no objection to the application from landscape planning perspective;
- (b) based on the aerial photo taken on 13.3.2018, the Site was situated in an area of rural landscape character comprising scattered tree groups, temporary structures and storage yards. The application is considered not incompatible with the surrounding environment;
- (c) with reference to the site inspection on 20.11.2019, the Site is covered by grass and vacant. Four existing trees including two mature *Celtis sinensis* (朴樹) and two young *Dimocarpus longan* (龍眼) are found along the western boundary within the Site, while one mature *Celtis sinensis* (朴樹) is found adjacent to the northern boundary outside the Site (**Drawing A-3**). All the existing trees are in fair to very good condition. It is noted from the applicant's FI (**Appendix Ib**) that the proposed maneuvering path of vehicles would not encroach into tree protection zones of the existing trees within the Site (**Drawing A-4**). Also, kerbs would be provided to guard the existing trees from vehicular movement within the Site (**Drawing A-3**). Hence, significant adverse impact to landscape resources within the Site is not anticipated; and
- (d) should the application be approved, approval condition on maintenance of the existing trees within the Site satisfactorily at all times during the planning approval period should be included in the

planning approval.

Environment

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

should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

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

- (a) he has no objection in-principle to the proposed development from public drainage point of view; and
- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and the 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.

Water Supply

9.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD):

he has no objection to the application. His detailed comments are at **Appendix V**.

Building Matters

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

- (a) 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 Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (b) 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

- (c) the Site does not abut on a specified street of not less than 4.5m wide, and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

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, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations 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 fire service installations to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

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

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

- (a) Project Manager/West, Civil Engineering and Development Department (PM/W of CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Director of Electrical and Mechanical Service (DEMS).

10. Public Comment Received During Statutory Publication Period

On 8.11.2019, the application was published for public inspection. During the three-week statutory public inspection period, one public comment from a member of public was received (**Appendix IV**), suspecting that the proposed filling of land at the Site is a clear sign of a 'destroy-to-build' action.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary ‘shop and services’ use (metalware retail shop) at the Site for a period of 3 years, with filling of land at most part of the Site (about 506 m² or 85% of the Site) by 0.2m to increase the site level from 50.8 mPD to 51 mPD for accommodating the proposed structures and serving as circulation space. The shop is to serve the neighbouring community’s need for purchasing metalware products. The Site falls within an area zoned “R(D)” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). While the proposed ‘shop and services’ use is not entirely in line with the planning intention of “R(D)” zone, which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “R(D)” zone.
- 11.2 According to the applicant, three 1-2 storey structures are proposed for metalware retail shop at the Site. The proposed development with low-rise structures is not incompatible with the surrounding land uses which mainly comprise some domestic dwellings/structures intermixed with fallow farmland (**Plan A-2**). C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no comment on the application from traffic, environmental, drainage and landscape aspects. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. To mitigate any potential traffic and environmental impacts on the surrounding areas, approval conditions restricting the operation hours, and the type of vehicles allowed to access the Site are recommended in paragraphs 12.2 (a) to (c) below. The technical requirements of C for T, CTP/UD&L of PlanD, D of FS and CE/MN of DSD could be addressed by approval conditions in paragraphs 12.2 (d) to (j) below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.3 The Site is involved in one previous application (No. A/YL-SK/251) for the same applied use submitted by the same applicant but without filling of land, which was approved by the Committee on 19.7.2019. There is no major change in the planning circumstances as compared to the time of consideration of the previous application. For the current application with filling of land, the concerned departments, including CE/MN of DSD, remain having no objection to/no comment on the application. In addition, there is one similar application (No. A/YL-SK/248) for temporary shop and services (retail shop for hardware groceries) use within the same “R(D)” zone, approved with conditions by the Committee for a period of 3 years on 17.5.2019. The Committee’s considerations on the above two applications as stated in paragraphs 5 and 6 are generally applicable to the current application. The approval of the application is in line with the previous decisions of the Committee.
- 11.4 Regarding one public comment received during the statutory publication period as stated in paragraph 10, relevant Government departments’ comments and planning considerations set out in paragraphs 11.1 to 11.3 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 in paragraph 10, the Planning Department has no objection to the application.
- 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 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 operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (f) the submission of proposal for fire service installations and water supplies for fire-fighting 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;
- (g) in relation to (f) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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;
- (h) 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 20.9.2020;
- (i) in relation to (h) above, the implementation of drainage proposal with 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.12.2020;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (k) if any of the above planning conditions (a), (b), (c), (d), (e), or (j) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice; and
- (l) if any of the above planning conditions (f), (g), (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.

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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been given in the submission to justify 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

Appendix I	Application form with attachments received on 1.11.2019
Appendix Ia	Further Information (FI) dated 4.2.2020
Appendix Ib	FI dated 6.3.2020
Appendix II	Previous Application
Appendix III	Similar Application
Appendix IV	Public Comment
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Paved Area Plan
Drawing A-3	Landscape and Tree Preservation Plan
Drawing A-4	Swept Path Analysis Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2020**