

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/295

<u>Applicant</u>	: Mr. TSANG Man Ching represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 1136 RP (Part) in D.D. 114, Chung Sum Tsuen, Shek Kong, Yuen Long
<u>Site Area</u>	: About 597 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Proposed Temporary Shop and Services (Convenience Store) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (convenience store) for a period of 5 years. The Site falls within an area zoned “V” on the approved Shek Kong OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “V” zone, and planning permission from the Town Planning Board (the Board) is required for the proposed use. The Site is currently vacant, fenced and partly covered with weeds.
- 1.2 According to the applicant, the proposed development will consist of two single-storey container-converted structures (of 4.2m high) with a total floor area of about 99m², which will be used for convenience store and meter room respectively (**Drawing A-1**). The operation hours will be 9:00a.m. to 7:00p.m. daily. Whilst there will be a soft landscaping area (about 47m²) along the northwestern edge of the Site to minimise nuisance to the nearby residential dwellings, the remaining area (about 451m²) will mainly be used as parking and circulation spaces. Two parking spaces for private cars and one loading/unloading space for light goods vehicles are provided on-site. The Site is accessible from Kam Sheung Road via Ko Sheung Road, Nam Hing West Road

and a local track (**Plans A-1 and A-2**). The layout plan and paving ratio plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application Form with Planning Statement received on 17.12.2020 (**Appendix I**)
- (b) Further information (FI) received on 27.1.2021 (**Appendix Ia**)
(*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 and Ia**, and are briefly summarised as follows:

- (a) the proposed convenience store is intended to provide groceries, packaged snacks/drinks, home supplies, etc. to serve the needs of the residents of the surrounding areas. The application is on a temporary basis so that it will not jeopardise the long-term planning intention of the “V” zone. Moreover, it will not set an undesirable precedent as similar applications within the same “V” zone have been approved by the Board before;
- (b) the estimated maximum number of visitors would be about 20 per day, and there would be four members of staff working on-site. Two private cars parking spaces would be for staff use while one loading/unloading space for light goods vehicles will be provided for goods delivery. No parking space is provided for visitors who are required to access the Site by walking. As the traffic generation will be minimal, no adverse traffic impact is envisaged due to the proposed use;
- (c) the proposed development will not create significant adverse environmental, landscape and drainage impact. Adequate mitigation measures on drainage and fire services aspects will be provided upon approval of the application; and
- (d) the Site is currently covered with gravel and unsuitable for the proposed use, and therefore gravel will be removed and the Site (except for the soft landscaping area of about 47m²) will be hard-paved for site formation for the proposed structures and circulation purposes (**Drawing A-2**). No filling/excavation of land is required.

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

The applicant is not the “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 (the Ordinance) (TPB PG-No. 31A) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Application**

There is no previous application in respect of the Site.

6. **Similar Applications**

6.1 There are five similar applications (Nos. A/YL-SK/169, 195, 205, 228 and 284) for temporary shop and services use within the same “V” zone on the OZP, which were approved by the Rural and New Town Planning Committee (the Committee) between 2012 and 2020. Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6.2 The above five applications for various temporary shop and services uses (including horticulture and interior design sample showroom, brass ware showroom and retail shops, real estate agency and retail shop for furniture and pet accessory, and motor-vehicle showrooms) all for a period of 3 years were approved with conditions by the Committee on the similar considerations that the development would not jeopardise the long-term planning intention of the “V” zone; it was not incompatible with the surrounding environment; it was unlikely to generate significant environmental nuisance; relevant Government departments had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval of three applications (Nos. A/YL-SK/169, 195 and 228) was revoked on 15.12.2012, 8.2.2015 and 26.6.2020 respectively due to non-compliance with approval conditions in relation to the submissions and/or implementation of drainage, fire service installations (FSIs) and tree preservation proposals.

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

7.1 The Site is:

- (a) currently vacant, fenced and partly covered with weeds; and
- (b) accessible from Kam Sheung Road via Ko Sheung Road, Nam Hing West Road and a local track (**Plan A-1**).

7.2 The southwestern portion of the Site falls within the Railway Reserve boundary of the High Speed Rail (Hong Kong Section) (**Plan A-2**).

7.3 The surrounding areas are predominantly rural in character with mainly domestic dwellings/structures and active/fallow farmland (**Plan A-2**):

- (a) to its north and west are a few domestic dwellings/structures and some active/fallow farmland;
- (b) to its east is a cluster of domestic dwellings/structures intermixed with areas for parking of vehicles and a sitting-out area; and
- (c) to its immediate south is the shunt neck staircase of the High Speed Rail (Hong Kong Section), and to its further south is Nam Hing West Road and a nullah, and off the nullah is the village cluster of Nam Hing Lei.

8. Planning Intention

The planning intention of the “V” zone is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the “V” 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 Houses. 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 summarised 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) should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularise any irregularities on site, if any. Besides, given the applied 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(s) 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; and

- (c) there is no Small House application approved or currently under processing at the Site.

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 that 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 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Nam Hing West Road; and
- (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) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department to minimise any potential environmental nuisances; and
- (b) in the past three years, there are three substantiated environmental complaints concerning the Site received by DEP. All three were waste complaints received in 2020 related to land filling and fly-tipping activities within the Site.

Drainage

9.1.5 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 public drainage point of view; and
- (b) should the application be approved, conditions should be stipulated in the approval letter requiring the applicant 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.

Building Matters

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

for unauthorised building works (UBW) erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing 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 Buildings Ordinance (BO).

Fire Safety

9.1.7 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 where the proposed FSI 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 Officers' Comments

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

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

9.2 The following Government departments have no objection to/adverse comment on the application. Their detailed comments, if any, are at **Appendix IV**:

- (a) Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD);
- (b) Chief Estate Surveyor/Railway Development Section, Lands Department (CES/RD, LandsD);
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (f) Director of Electrical and Mechanical Services (DEMS); and
- (g) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 29.12.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual (**Appendix III**) was received. He objects to the application mainly on the grounds that the provision of shop and services within a village residential cluster would lead to environmental pollution, fire safety hazard and adversely affect the safety and quality of living of the villagers.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (convenience store) use at the Site for a period of 5 years (**Plan A-1**). The planning intention of the "V" zone is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within the zone is primarily intended for development of Small House development by indigenous villagers. The proposed use is not entirely in line with the planning intention of the "V" zone, and DLO/YL of LandsD advises that there is no Small House application approved or currently under processing at the Site. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the "V" zone.

11.2 According to the application, the proposed convenience store is intended to serve the needs of the residents of the surrounding areas. The proposed use comprising two single-storey structures with a total floor area of 99m² is considered not incompatible with the surrounding areas which are

predominantly rural in character and occupied by domestic dwellings/structures and active/fallow farmland (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and RDO of HyD have no adverse comment on/no objection to the application from traffic, environmental, drainage, landscape and railway development perspectives. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage, landscape and railway development impacts on the surrounding areas. Although there are three substantiated environmental complaints (in relation to land filling and fly-tipping activities) concerning the Site received by DEP in the past three years, they are not related to the proposed use under application. To minimise the possible environmental nuisance generated by the proposed use, approval conditions restricting the operation hours and types of vehicles entering the Site are recommended in paragraphs 12.2 (a) to (b) below. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2 (c) to (h) below. 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 There are five similar applications for various temporary shop and services uses within the same “V” zone, which were approved by the Committee between 2012 and 2020. The Committee’s considerations on these applications as stated in paragraph 6 are generally applicable to the current application and approval of this application is in line with the previous decisions of the Committee.
- 11.4 Regarding the objecting public comment received during the statutory publication period, the departmental comments and planning considerations and assessment 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 comment 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 5 years until 5.2.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00p.m. and 9:00a.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) the submission of a 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 **5.8.2021**;
- (e) in relation to (d) above, the implementation of the 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 **5.11.2021**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installation 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 **5.8.2021**;
- (h) in relation to (g) above, the implementation of the fire service installation 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 **5.11.2021**;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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 (d), (e), (g) or (h) 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 at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intention of the "V" zone which is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. 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 received on 17.12.2020
Appendix Ia	Further information (FI) received on 27.1.2021
Appendix II	Similar Applications
Appendix III	Public Comment
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Paving Ratio Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2021**