

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/287

- Applicant** : Full Sharp Development Ltd represented by Goldrich Planners & Surveyors Ltd.
- Site** : Lot 291 S.B in D.D. 112 and Adjoining Government Land, Kam Sheung Road, Yuen Long
- Site Area** : About 261 m² (including Government land of about 11 m² or 4.2%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Residential (Group D)” (“R(D)”)
[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
- Application** : Temporary Shop and Services (Real Estate Agency) with Ancillary Office for a Period of 3 Years

1 The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services (real estate agency) with ancillary office 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-1a**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “R(D)” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicant, a total of four one to two-storey structures (about 2.5m – 5.6m high) with a total floor area of about 127m² are erected for real estate agency office, ancillary office, toilet and storage uses. One car parking space for private car will be provided at the Site. The operation hours will be 9:00a.m. to 6:00p.m. daily (including public holidays). The Site is directly accessible from Kam Sheung Road. The submitted site layout plan is at **Drawing A-1**.

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

- (i) Application Form with attachments including drainage and landscape proposals and swept path analysis received on 28.8.2020 **(Appendix I)**
- (ii) Further Information (FI) dated 16.9.2020 **(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 **Appendix I** and are briefly summarized as follows:

- (a) The applied use is a Column 2 use within the “R(D)” zone on the OZP. The temporary nature of the current application would not jeopardize the long term planning intention of the OZP.
- (b) Structures within the Site are one to two storeys high and are not incompatible with the surrounding rural setting of low-rise workshop and village houses, and no adverse visual impact is expected. Besides, the submitted drainage proposal and swept path analysis demonstrated that the applied use would not generate adverse drainage impact and the additional traffic brought to Kam Sheung Road would be minimal.
- (c) The applied use caters for the need of the local residents for real estate agency services.

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

The applicant is the “current land owner” of the private land portion. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements of the Town Planning Ordinance (TPB PG-No.31A) are not applicable.

4 Background

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

5 Previous Applications

The Site is not the subject of any previous application.

6 Similar Application

There is no similar application for temporary shop and services within the same “R(D)” zone on the OZP.

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

7.1 The Site is:

- (a) fenced off, and used for the applied use without valid planning permission; and
- (b) directly accessible from Kam Sheung Road.

7.2 The surrounding areas are rural in character and mainly occupied by open storage yards, plant nursery, office, warehouse, gardens, vehicle repair workshop and vacant/unused land:

- (a) to its west, south and east are open storage yards, plant nursery and unused land; and
- (b) to its north across Kam Sheung Road is an area zoned “Agriculture” (“AGR”) occupied by warehouse, open storage yards, vehicle repair workshop, office, gardens and vacant/unused land.

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.

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 11m² subject to verification) included in the Site. The applicant's attention is drawn to the fact that any occupation of GL without Government's prior approval is not allowed; and
- (c) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Furthermore, the applicant has to either exclude the GL from the application site or obtain a formal approval prior to the actual occupation of the GL. 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.

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; and
- (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.

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 Kam Sheung Road; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads or 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) there is no environmental complaint concerning the Site received by DEP in the past three years.

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 applied development from public drainage point of view and he has no adverse comment on the submitted drainage proposal;
- (b) should the application be approved, the conditions requiring the implementation and maintenance of the agreed drainage proposal for the development to the satisfaction of the Director of Drainage Services and the Board should be included in the planning approval; and
- (c) his detailed comments on the submitted drainage proposal are at **Appendix III**.

Building Matters

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

- (a) as there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on the 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 BA, 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 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 BO;
- (d) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc) are to be carried out on the Site, prior approval and consent of the BA 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) 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 B(P)R at the building plan submission stage; and
- (g) detailed checking under the BO will be carried out at building plan submission stage.

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, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with provisions of 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 BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's 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 departments have no objection to or no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

10 Public Comment Received During Statutory Publication Period

On 4.9.2020, the application was published for public inspection. During the three-week statutory publication period, one objecting comment from an individual (**Appendix II**) was received. The individual objected to the application mainly on the grounds that the commercial activity in the midst of the dense residential area would adversely affect the rural lifestyle and ecology of the surrounding area.

11 Planning Considerations and Assessments

11.1 The application is for the applied temporary shop and services (real estate agency) with ancillary office for a period of 3 years at the Site zoned "R(D)" on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). 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 Board. Although the applied use is not entirely in line with the planning intention, there is no known permanent development for the Site. 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 The applied use comprising four one to two-storey structures and abutting Kam Sheung Road is considered not incompatible with the surrounding areas which are rural in character and mainly occupied by open storage yards, plant nursery, warehouse, office, vehicle repair workshop, gardens and vacant/unused land. Relevant government departments consulted, including C for T, DEP, CE/MN of

DSD and D of FS have no objection to/no comment on the application from traffic, environmental, drainage and fire safety aspects. It is anticipated that the applied use would not generate significant traffic, environmental, drainage and fire safety impacts. To minimize the possible environmental nuisance generated by the development, approval conditions restricting the operating hours and types of vehicles allowed to enter the Site are recommended in paragraph 12.2 (a) and (b) below. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (c) to (g). The applicant is also advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact.

- 11.3 The Site is not subject to any previous application or any similar application within the same “R(D)” zone on the OZP.
- 11.4 Regarding the objecting comment received during the statutory publication period as stated in paragraph 10, the relevant Government departments’ comments and planning considerations set out 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 3 years until 23.10.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of fire services 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 23.4.2021;
- (e) in relation to (d) above, the provision of fire services installations 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 23.7.2021;

- (f) 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 23.4.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) if any of the above planning conditions (a), (b), (c) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (d), (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 at **Appendix III**.

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

the applied use 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 28.8.2020

Appendix Ia	Further Information dated 16.9.2020
Appendix II	Public comments
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**