

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

APPLICATION NO. A/YL-LFS/330

- Applicant** : Sun Cheong Management Consultant Limited
- Site** : Lot 2093 (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : 1,348 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Shop and Services (Retail of Family Goods) with Ancillary Office 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 (retail of family goods) with ancillary office for a period of 3 years. The Site falls within an area zoned “REC”. According to the covering Notes of the OZP for “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years. The Site is currently formed and vacant.
- 1.2 The Site is accessible from Shan Tung Street via local track (**Drawing A-3** and **Plan A-3**). The ingress/egress is located at the west of the Site (**Drawing A-2**). As shown on **Drawing A-2**, there are two temporary structures (converted container) on the Site with a total floor area of 72m². They are one-storey structures for retail shops and another one for office uses (of not exceeding 5m high, with a floor area of not exceeding 36m² each). No parking spaces and loading/unloading space will be provided. According to the applicant, the operation hours of the Site are from 9:00 a.m. to 7:30 p.m. daily (including Sundays and public holidays).
- 1.3 In support of the application, the applicant has submitted the following documents:

(a) Application form received on 8.11.2018

(Appendix I)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The proposed development is a temporary use which would not jeopardize the long term planning intention of the “REC” zone.
- (b) The nature, form and layout of the proposed development are compatible with the surrounding environment. There are some open storage developments in the “REC” zones in the surrounding areas, which have been approved by the Board for temporary use. Compared with the open storage use, the application use is relatively simple.
- (c) The proposed development provides convenience to the surrounding residents. The opening hour proposed is compatible with the surrounding environment. There are no adverse traffic, environmental, visual and drainage impacts from the development.

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

The applicant is not the “current land owner” and has also 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. 31) by posting site notice and sending notice to the Ping Shan Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action. Should a material change of use be identified on Site, which constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

5. Previous Applications

- 5.1 The Site is the subject of 3 previous applications Nos. A/YL-LFS/28, 45 and 68 for temporary open storage use on a much larger site, which were approved by the Rural and New Town Planning Committee (the Committee) and the Board. Details of these applications are summarized at **Appendix II** and their location is shown on **Plan A-1**.
- 5.2 Applications No. A/YL-LFS/28, 45 and 68 for temporary open storage of marble, which were approved by the Committee and the Board with conditions for 1 year between 1998 and 2001. Application No. A/YL-LFS/68 was revoked on

26.4.2002 due to non-compliance with landscaping and drainage approval conditions.

6. Similar Application

There is 1 similar application (No. A/YL-LFS/307) for temporary shop and service (retail of family goods) with ancillary office uses within the same “REC” zone approved by the Committee on 9.2.2018. Particulars of the application and the decision of the Board are summarized at **Appendix III**. The locations of the application site is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plan A-1 to Plan A-4)

7.1 The Site is:

- (a) currently formed and vacant; and
- (b) accessible from Shan Tung Street via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly open storage yard of bamboo/construction materials/recycling materials, vehicle parks, deposit of container, marble workshop and open storage of construction machinery which are suspected UDs and warehouses for storage of animal feed which is tolerated under the Town Planning Ordinance and under approved Application No. A/YL-LFS/295 to its north-east;
- (b) there are approved applications to its south and east for various uses under Application No. A/YL-LFS/307 (temporary shop and services (retail of family goods) with ancillary office) and Application No. A/YL-LFS/308 (temporary open storage of marble and construction materials with ancillary workshop, vehicle/cargo compartments assembly workshop);
- (c) to its further south across Deep Bay Road are temporary open storage of marbles, construction materials, aluminium cans and cylinder/frames, small-scale machinery under approved Application No. A/YL-LFS/283; and
- (d) the closest residential dwellings is about 24m away.

8. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

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) The Site is accessible from Deep Bay Road through both Private Land (PL) and Government land (GL). Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should the application be approved, the lot owner will need to apply to her office to permit the structures to be erected or regularize any irregularity 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. Such application will be considered by LandsD acting in the capacity of 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 LandsD.

Traffic

9.1.2 Comments of the Chief Highway Engineer (CHE/NTW, HyD):

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

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

- (a) No environmental complaint pertaining to the Site has been received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites".

Landscape

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

- (a) The Site, located to the north of Deep Bay Road and lies in an area of "REC" zone. The Site is subject to last Planning Application No. A/YL-LFS/68 for temporary open storage of marble with ancillary workshop that was revoked on 26.4.2002. The current application seeks planning permission for temporary shop and services for a period of 3 years.
- (b) With reference to the site photographs from DPO dated 29.11.2018 and aerial photo of 2018, the Site is observed to be formed and vacant with some existing trees along the eastern boundary. The Site is situated in an area of rural landscape character disturbed by open storage yards and temporary structures.
- (c) The Site was mainly active farmland and partly hard paved as shown in aerial photos of 2017. With reference to the aerial photo of 2018, larger extent of site area has been hard paved and missing trees are also observed. The entire site is observed formed with clearance of all the existing vegetation as shown in the site photographs dated 29.11.2018. Impacts on the landscape resources within the site have been taken gradually.
- (d) Approval of the application would likely set an undesirable precedent encouraging other similar application to form the site and remove the vegetation prior to obtaining planning permission. The cumulative impact of which would result in the degradation of the rural landscape character in general.
- (e) In view of the above, he has reservations on the application from the landscape planning perspective.
- (f) Should the TPB approve this application, in consideration of the Site is screened by existing vegetation and there is no major public frontage along the site boundary, the condition to maintain the existing vegetation within the Site in good condition within the site at all times during the planning approval period is adequate and appropriate.

- (g) The Applicant is reminded to approach relevant authority/government department(s) direct to obtain the necessary approval on tree works such as felling, transplanting or pruning under lease.
- (h) The Applicant is reminded of the importance of undertaking proper tree care for the existing tree. Useful information published by the GLTM Section, DEVB on general tree maintenance and tree risk management is available for reference in the following links:

護養樹木的簡易圖解:

http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf

樹木管理手冊:

https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html

樹木風險評估及管理安排:

https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html

護養樹木 保障安全:

http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf

減低樹木風險的樹木護養簡易圖解 :

[http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf)

Drainage

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

He has no objection in principle to the proposed development from a drainage point of view. Should the Board consider the application is acceptable from the planning point of view, a condition should be stipulated in approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage services to the satisfaction of his Division.

Nature Conservation

- 9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

As the Site and surrounding areas are disturbed and the proposed development would not involve tree felling as indicated by the applicant, she has no adverse comment on the application from nature conservation point of view.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD 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) 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.
- (c) 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.
- (d) 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.

Fire Safety

9.1.8 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 (FSIs) being provided to the satisfaction of D of FS.
- (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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans.
- (d) 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.

Director of Food and Environmental Hygiene's comments

9.1.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the such activity / operation, the applicant should arrange disposal properly at her own expenses, and;
- (c) Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

Director of Leisure and Cultural Services' comments

9.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

She has no comment on the application as the Site is not reserved for LCSD to use and LCSD has no plan to acquire the Site for any development.

District Officer's Comments

9.1.11 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD);
- (b) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Commissioner of Police (C of P);
- (e) Assistant Commissioner for Transport/NT (AC for T/NT, TD); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 16.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 7.12.2018, 2 public comments were received from a District Council member and an individual (**Appendix IV**) objecting to the application on the reasons that relevant recreational facilities should be provided to residents nearby and the size is too large for family store use.

11. Planning Considerations and Assessments

- 11.1 The planning intention of “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission. Although the applied use is not entirely in line with the planning intention of “REC” zone, there is yet to have any known programme to implement the zoned use on the OZP. Therefore, approval of the application on temporary basis would not frustrate the planning intention of the “REC” zone.
- 11.2 The proposed temporary use is not incompatible with the land uses in the surrounding area, which is predominately occupied by open storage uses, vehicle parks and workshops (**Plan A-2**).
- 11.3 CTP/UD&L, PlanD has reservations on the application from the landscape planning perspective. Approval of the application would likely set an undesirable precedent encouraging other similar application to form the site and remove the vegetation prior to obtaining planning permission. However, there is no adverse comment from the concerned Government departments, including DEP, AC for T/NT of TD and CE/MN of DSD. No major adverse impacts on environment, traffic and drainage are anticipated. Relevant approval conditions have been recommended in paragraph 12.2 to minimize any possible nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers
- 11.4 The Committee has approved 1 similar application for temporary shop and services (retail of family goods) with ancillary office to its immediate south within the same “REC” zone. Approval of the current application is in line with the previous decision of the Committee.
- 11.5 There are two public comments received on the application objecting to the application mainly on the grounds as summarized in paragraph 10 above. The planning assessments and considerations in paragraph 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department considers that the temporary shop and services (retail of family goods) with ancillary office could be tolerated 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 **4.1.2022**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:30 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing vegetation on the Site shall be maintained in good condition at all times during the planning approval period;
- (c) 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 **4.7.2019**;
- (d) in relation to (c) 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 **4.10.2019**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a 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 **4.7.2019**;
- (g) in relation to (f) above, the implementation of the 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 **4.10.2019**;
- (h) if any of the above planning conditions (a), (b) or (e) is not complied with during the 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 (c), (d), (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.

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 applied development is not in line with the planning intention of the "REC" zone, which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from such 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 8.11.2018,
Appendix II	Previous applications covering the Application Site
Appendix III	Similar Applications within the same "REC" zone
Appendices IV(a) to IV(b)	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Proposed Fire Service Installations Plan
Drawing A-3	Proposed Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2019**