

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/609

- Applicants** : Mr. LEE Yiu-hung represented by R-riches Property Consultants Limited
- Site** : Lot 136 RP (Part) in D.D. 123, Ping Shan, Yuen Long, New Territories
- Site Area** : About 149 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Village Type Development” (“V”)
[Restricted to maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services for a Period of 5 Years and Land Filling

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 with ancillary office) for a period of 5 years and land filling. The Site falls within an area zoned “V” on the Approved Ping Shan Outline Zoning Plan (the OZP) No. S/YL-PS/18 (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Shop and Services’ (except those on the ground floor of a New Territories Exempted House (NTEH)) requires planning permission from the Town Planning Board (the Board). According to the Notes of the “V” zone, any filling of land requires planning permission from the Board. The Site is currently hard-paved and used for open storage of miscellaneous items without planning permission (**Plan A-4**).
- 1.2 The Site is accessible from Fuk Shun Street (**Plan A-2**). As shown on **Drawings A-1 to A-3**, a two-storey temporary structure about 7m in height with a total floor area of 150m² is proposed on the Site for shop and services (convenience store), ancillary office and storage uses. The applicant proposes hard-paving the entire site (i.e. 149m²) of not more than 0.2m in depth for site formation of structure, and circulation and maneuvering of vehicle. The operation hours are from 9 a.m. to 8 p.m. every day (including public holidays). The applicant proposes one loading/unloading bay for light goods vehicle at the Site for staff use. No visitor parking is provided at the

Site. The layout plan, land filling and section plan, and floor plan submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application Form with planning statement and plans (**Appendix I**) received on 20.5.2020
- (b) Further Information (FI) received on 17.6.2020 (**Appendix Ia**) providing the floor plan of the temporary structure (*accepted and exempted from publication requirements*)
- (c) FI received on 26.6.2020 responding to Transport Department's comments (**Appendix Ib**) (*accepted and exempted from publication requirements*)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the planning statement at **Appendix I**. They can be summarised as follows:

- (a) The applicant proposes to operate a convenience store at the Site to serve the nearby neighbourhood.
- (b) There is a high demand for a convenience store in the area. The proposed development could meet the genuine demand for convenience store in the area and create new job opportunities.
- (c) The loading/unloading bay is for light goods vehicle only. Medium or heavy vehicles exceeding 5.5 tons, including container tractors/trailers are prohibited to be parked/stored/entered to the Site.
- (d) Ancillary office and storage space will be provided. No workshop activity will be carried out at the Site.

3. **Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is not a "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 (TPB PG-No. 31A) by posting notice at the Site and sending registered post to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is not subject to any planning enforcement action.

5. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) are relevant to this application. According to the said Guidelines, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) The intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) Within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

6. **Previous Application**

The Site is not involved in any previous application.

7. **Similar Applications**

- 7.1 Within the same “V” zone, there are 7 similar applications (No. A/YL-PS/418, 475, 517, 518, 542, 582 and 605) covering three sites for temporary shop and services uses (real estate agency or convenience store) for a period of 3 or 5 years, all of which were approved by the Committee from 2013 to 2020. Details of these applications are summarized at **Appendix II** and the locations of these application sites are shown on **Plan A-1**.
- 7.2 Three of these similar applications (No. A/YL-PS/475, 517 and 542) for temporary convenience store for a period of 3 or 5 years were approved by the Committee on 27.3.2015, 22.4.2016 and 23.6.2017 respectively. Another four similar applications (No. A/YL-PS/418, 518, 582 and 605) for temporary real estate agency for a period of 3 or 5 years were approved by the Committee on 11.10.2013, 27.5.2016, 22.3.2019 and 12.6.2020 respectively. All of which were approved on similar considerations of not frustrating the long-term planning intention of “V” zone, not incompatible with the surrounding land uses, not envisaging adverse ecological impacts and no objection or adverse comment from concerned Government departments.
- 7.3 However, amongst these approved applications, the planning permission for Applications No. A/YL-PS/418, 475, 517 and 582 were revoked on 11.7.2015, 27.9.2015, 22.10.2016 and 22.9.2019 respectively due to non-compliance with the approval conditions on fire safety aspects.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently hard-paved and used for open storage of miscellaneous items without planning permission; and
- (b) accessible from Fuk Shun Street (**Plan A-2**).

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) to the immediate east is open storage of construction materials which is covered by application (No. A/YL-PS/605) for temporary real estate agency approved by the Committee on 12.6.2020. To further east and southeast are parking of vehicles, storage yards and plant nurseries; to the further southeast is the residential development named Vienna Villa;
- (b) to the south and southwest are residential dwellings, plant nursery, storage yards, parking of vehicles and to the further south is the village cluster of Shing Uk Tsuen;
- (c) to the west and northwest across Fuk Shun Street are eating place, real estate agency, vehicle repairing workshop and residential dwellings; and
- (d) to the north and northeast across Fuk Shun Street are residential dwellings, parking of vehicles and shrubland.

9. 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 re-provisioning 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 10.1.1 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 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 the 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. Applications of any of the above 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.
 - (c) There is no Small House application received or approved within the Site.

Traffic

- 10.1.2 Comments of the Commissioner for Transport (C for T):
- (a) The Site is connected to Fuk Shun Street via a section of a local access which is not managed by Transport Department (TD). The land status of the local access road should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
 - (b) Providing that vehicles are allowed to use the egress/ingress point and the access fronting, the applicant shall provide proper run-in/out with design standard complied with Transport Planning and Design Manual's (TPDM) requirements. The applicant shall be responsible for any reinstatement of run-in/out.
 - (c) The applicant shall submit an application to relevant government departments for addition or alternation of the

vehicular run-in/outs for approval once planning approval has been granted from the Board. The related application procedures could be found in website of Transport Department named as "Information Note for Application for Addition or Alteration of Vehicular Run-in/out for Existing Buildings".

- (d) It is noted that medium or heavy goods vehicles exceeding 5.5 tons, including container tractors/trailers are not allowed to be parked/stored/entered in the Site.
- (e) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by TD.
- (b) If the proposed access arrangement is agreed by TD, the applicant shall provide the run-in/out at Fuk Shun Street in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) There is a drainage channel and a drainage gully at the proposed access to the Site, the applicant shall maintain its capacity and functionality. The applicant shall submit the design of the necessary modification works and the run-in/out for comment and agreement of HyD and TD before the commencement of any works. All works shall be constructed to the satisfaction of HyD and TD.
- (d) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (e) HyD shall not be responsible for the maintenance of any access connecting the Site and Fuk Shun Street.

Environment

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

Should the application be approved, 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" ("COP").

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Fire Safety

10.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire services 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 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 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 or referral from relevant licensing authority.

Landscaping

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

The Site falls within an area zoned “V” on the OZP. With reference to the aerial photo of 2019, the Site is hard paved and vacant. The Site is situated in an area of miscellaneous rural fringe landscape character. The maximum building height of the proposed development (7m) is similar to the adjacent developments. Significant change to the landscape character arising from the

application is not anticipated.

Nature Conservation

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

It is noted that the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.

Building Matters

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (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) Before any new building works (including containers/open sheds as temporary buildings demolition and land filing) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (d) 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.
- (e) 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 B(P)R at the building plan submission stage.

Geotechnical

10.1.10 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no in-principle geotechnical objection to the application.
- (b) The applicant shall submit the proposed building works to BD for approval as required under the provisions of the BO.
- (c) The applicant is reminded that the Site is located within the Scheduled Area No. 2 and may be underlain by cavernous marble. For any new development at the Site, extensive geotechnical investigation may be required. Such investigation may require a high level of involvement of an experienced geotechnical engineer both in the design and in the supervision of geotechnical aspects of the works required to be carried out on the Site.

District Officer's Comments

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

His office received one comment from the village representative of Shing Uk Village (**Appendix III**) objecting to the application on the grounds that the proposed land filling works would induce adverse environmental impact to the village, the proposed development is not compatible with the surrounding area and the proposed development would affect the security of the village.

10.2 The following departments have no comment on the application:

- (a) Project Manager (West), CEDD (PM(W), CEDD);
- (b) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 29.5.2020, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for a temporary shop and services (convenience store with

ancillary office) for a period of 5 years and filling of land 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 “V” 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 New Territories Exempted Houses. The development is not entirely in line with the planning intention of the “V” zone. However, the development could provide such facilities in the area to meet any such demand. DLO/YL, LandsD also advises that there is currently no Small House application or approval at the Site. Approval of the application on a temporary basis for 5 years would not jeopardize the long-term planning intention of the “V” zone.

- 12.2 The Site is currently surrounded by residential dwellings, car parks, storage yards and village clusters (**Plan A-2**). The proposed use is not incompatible with the surrounding land uses.
- 12.3 Although the Site falls within the WBA under the TPB PG-No. 12C, the guidelines also specify that planning applications for local and minor uses (including temporary uses) are exempted from the requirement of EcoIA. DAFC has no comment on the application from nature conservation point of view as the Site is paved and disturbed. Adverse ecological impacts are not envisaged.
- 12.4 Concerned Government departments have no objection to or no adverse comment on the application. Relevant approval conditions have been recommended in paragraph 13.2 below to address the technical concerns of concerned Government departments. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will also be advised to follow the “COP” in order to minimize any potential environmental impact.
- 12.5 There are 7 similar applications (No. A/YL-PS/418, 475, 517, 518, 542, 582 and 605) for temporary real estate agency or convenience store uses in the “V” zone for a period of 3 or 5 years approved by the Committee. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There is no public comment received during the public exhibition period. DO/YL, HAD has relayed a local comment (**Appendix III**) objecting to the application on the grounds as summarized in paragraph 10.1.11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into the

local comment mentioned in paragraph 10.1.11 above, the Planning Department has no objection to the application for the proposed temporary shop and services for a period of 5 years and filling of land.

- 13.2 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 10.7.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (c) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers is allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (e) the submission of a run-in/out proposal for the Site within **6 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **10.1.2021**;
- (f) in relation to (e) above, the provision of a run-in/out within **9 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by **10.4.2021**;
- (g) 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 **10.1.2021**;
- (h) in relation to (g) 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 **10.4.2021**;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) 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 **10.1.2021**;

- (k) in relation to (j) 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 **10.4.2021**;
- (l) if the above planning conditions (a), (b), (c), (d) or (i) 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
- (m) if any of the above planning conditions (e), (f), (g), (h), (j) or (k) 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**.

- 13.3 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 "V" zone which 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I Application Form with planning statement and plans received on 20.5.2020

Appendix Ia	FI providing the floor plan of the temporary structure
Appendix Ib	FI responding to Transport Department's comments
Appendix II	Similar s.16 Applications within the Same "V" Zone
Appendix III	Comment from Shing Uk Village's Representative
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Land Filling and Section Plan
Drawing A-3	Proposed Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2020**