

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/490

<u>Applicant</u>	:	R-riches Property Consultants Limited
<u>Site</u>	:	Lots 1430 (Part), 1431 (Part), 1432 (Part) and 1433 (Part) in D.D. 117, Tai Tong, Yuen Long, New Territories
<u>Site Area</u>	:	About 1,705m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zoning</u>	:	“Open Storage” (“OS”)
<u>Application</u>	:	Proposed Temporary Wholesale Trade with Ancillary Office and Storage for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary wholesale trade with ancillary office and storage for a period of 5 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘Wholesale Trade’ is a Column 2 use in “OS” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a warehouse for storage use (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was the subject of a previous application (No. A/YL-TT/401) on a slightly larger site for the same applied use (i.e. wholesale trade) which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 12.5.2017 for a period of 3 years. However, the planning approval was revoked on 12.10.2019 due to non-compliance with a time-limited approval condition concerning the implementation of the fire service installations (FSIs) proposal. Details of the previous application are at paragraph 5 below and **Appendix II**. Compared with the last application, the current application is submitted by the same applicant for the same use with similar site layout and on a smaller site.
- 1.3 According to the applicant, the prospective operator is a wholesaler of vehicle parts and the goods will be mainly transported by the operator’s fleet of light

goods vehicle (LGV). The future workers will travel to and from the Site by public transport and their clients have to book in advance with the operator before accessing the Site. Adequate space for manoeuvring of vehicles will be provided within the Site. Plans showing the vehicular access leading to the Site, site layout and parking arrangement submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/401 (a)	Current Application No. A/YL-TT/490 (b)	Difference (b)-(a)
Applied Use	Proposed Temporary Wholesale Trade (Drinks) and Storage and Ancillary Office for a Period of 3 Years	Proposed Temporary Wholesale Trade (Vehicle Parts) with Ancillary Office and Storage for a Period of 5 Years	Changes in items and applied for different period of time
Site Area	2,071.3m ² (about)	1,705m ² (about)	-366.3m ² (about) (-17.7%)
Total Floor Area (Non-domestic)	1,369m ² (about)	1,386.8m ² (about)	+17.8m ² (about) (+1.3%)
No. and Height of Structures	1 • for wholesale trade, storage and site office uses (8.23m, 1 storey)	6 • one for wholesale trade (vehicle parts) and ancillary storage of goods (8.23m, 1 storey). There are 3 other structures underneath: - one for site office - one for meter room - one for fire services water tank, pump room and control panel • one for loading/unloading (L/UL) platform (1.2m, 1 storey) • one for washroom (3m, 1 storey)	+5 (+500%)
No. of Parking Spaces	2 (for private car and for staff)	Nil	-2 (-200%)
No. of L/UL Spaces	3 (2 for LGV (3.5m x 7m) and 1 for medium goods)	3 (for LGV (3.5m x 7m))	One space changed from MGV to LGV

	vehicle (MGV) (3.5m x 11m)		
Operation Hours	9:00 a.m. to 7:00 p.m. with no operation on Sundays and Public Holidays	9:00 a.m. to 6:00 p.m.	Shortened operation hours, but with operation extended to cover Sundays and Public Holidays

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

- (a) Application Form with appendix and plans received on 28.11.2019 **(Appendix I)**
- (b) Further Information (FI) received on 7.1.2020 providing a Certificates of FSIs and Equipment (F.S. 251) of the previous approved application and responses to comments from the Transport Department (TD)
[exempted from publication and recounting requirements] **(Appendix Ia)**
- (c) FI received on 10.1.2020 providing responses to comments from TD
[exempted from publication and recounting requirements] **(Appendix Ib)**

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the appendix attached to the Application Form in **Appendix I** and the FIs in **Appendices Ia and Ib**. They can be summarised as follows:

- (a) The proposed development will not jeopardise the long-term planning intention of the “OS” zone.
- (b) The Site was the subject of a previous planning permission (No. A/YL-TT/401). Most of the approval conditions under the previous application had been complied with except for the implementation of the FSIs proposal, as the applicant was pending electricity supply from the CLP Power Hong Kong Limited for the FSIs. A F.S. 251 of the previous approved application has been submitted in support of the current application.
- (c) According to the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), the Site falls within Category 1 areas and is considered suitable for open storage and port back-up uses.
- (d) The applicant undertakes to implement appropriate measures as set out in Professional Persons Environmental Consultative Committee Practice Note (ProPECC PN) regarding sewerage aspect. The applicant would maintain the same

drainage and FSI facilities as those installed under the previous permission No. A/YL-TT/401.

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 of the application outside the Site and sending the notice to the Shap Pat Heung Rural Committee through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Application

5.1 The Site was the subject of a previous application (No. A/YL-TT/401) for the same applied use (i.e. wholesale trade) as the current application but for different goods (i.e. drinks), which was approved with conditions by the Committee on 12.5.2017 for a period of 3 years mainly on the consideration that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “OS” zone, the development was not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning approval was subsequently revoked on 12.10.2019 due to non-compliance with a time-limited approval condition concerning the implementation of the FSIs proposal. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.

5.2 Compared with the last application, the current application is submitted by the same applicant for the same use with similar site layout and on a smaller site.

6. Similar Application

There was one similar application (No. A/YL-TT/449) for proposed temporary wholesale trade (metal ware) in the same “OS” zone, which was approved with conditions by the Committee on 22.2.2019 for a period of 3 years on similar considerations as those stated in paragraph 5.1 above. Details of the application is summarised in **Appendix III** and the location of the site is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible via a local track connecting to Kiu Hing Road to its northwest (**Plans A-2 and A-3**);
- (b) paved and fenced off; and
- (c) currently occupied by a warehouse for storage use (**Plans A-2, A-4a and A-4b**).

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) rural but mixed in character, with warehouses, hobby farm, residential structures, a gardening yard, an office, fallow agricultural land, vacant/unused land and parking of vehicles;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 80m to its northeast;
- (c) to its northeast, southeast and southwest are 4 warehouses in the subject “OS” zone;
- (d) to its east is a hobby farm operating with valid planning approval (No. A/YL-TT/417) in the adjoining “Agriculture” (“AGR”) zone;
- (e) there is an approved application for filling of land and excavation of land for 47 permitted houses (New Territories Exempted Houses- Small Houses) (No. A/YL-TT/430) to the north of the Site in the adjoining “Village Type Development” (“V”) zone; and
- (f) except for the aforementioned operations with valid planning approvals, the office, gardening yard and parking of vehicles in the vicinity of the Site are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views 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 of Old Schedule Agricultural Lots 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 Kiu Hing Road via Government land (GL) and private land. Her office does not provide maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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 her department acting in the capacity of the landlord or lessor at her 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 her department.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the applicant's FI from traffic engineering viewpoint (**Appendix Ib**).
- (b) The land status of the access road/path/track leading to the Site from Kiu Hing Road should be checked with the lands authority.
- (c) The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (d) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) Adequate drainage measures should be provided at the site access

to prevent surface water flowing from the Site to nearby public roads/drains.

- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kiu Hing Road.

Environment

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

- (a) There were ten substantiated complaints related to odour of plastic burning and machine noise from operation, as well as one non-substantiated complaint in relation to light pollution concerning the Site received in the past 3 years.
- (b) Should the planning application be approved, the applicant should be 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” (Code of Practice) to minimise any potential nuisances.

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 the public drainage point of view.
- (b) Should the Board consider the application acceptable from the planning point of view, approval conditions requiring submission of a drainage proposal and implementation and maintenance of the drainage proposal for the development to the satisfaction of Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to 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. In addition, the applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.

- (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their 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 BA, they are unauthorised building works (UBW) under 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 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.
- (d) 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 BD should be obtained, otherwise they are UBW. An Authorised 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) 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 B(P)R at the building plan submission stage.

District Officer's Comments

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

His office has not received any comment from the village representatives in the vicinity regarding the application.

- 9.2 The following government departments have no comment on the application:
- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
 - (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
 - (c) Director of Agriculture, Fisheries and Conservation (DAFC);
 - (d) Director of Electrical and Mechanical Services (DEMS); and
 - (e) Commissioner of Police (C of P).

10. **Public Comment Received During the Statutory Publication Period**

On 6.12.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.12.2019, no public comment was received.

11. **Planning Considerations and Assessments**

- 11.1 The subject application is for proposed temporary wholesale trade with ancillary office and storage at a site zoned “OS” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Wholesale Trade’ is a Column 2 use in the “OS” zone which requires planning permission from the Board. The subject proposed wholesale trade use under a large covered structure would be akin to a warehouse or cargo handling and forwarding facility use which are always permitted in the “OS” zone. Although the current proposed wholesale trade use may induce comparatively more traffic as compared to a warehouse, nevertheless C for T did not raise objection on the current application. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and the proposed use is not entirely incompatible with this planning intention. Moreover, as the application is for temporary use of the Site for five years only, approval of the application on a temporary basis would not jeopardise the long-term planning intention for the Site.
- 11.2 The proposed development is not incompatible with the surrounding area which is mainly occupied by warehouses. Although there are residential dwellings in the vicinity, the proposed use is considered not incompatible with the uses in the subject “OS” zone (**Plan A-2**).
- 11.3 There are no adverse comment on the application from concerned government departments. Whilst there have been ten substantiated complaints on air and noise impacts concerning the Site received since January 2019, the complaints were regarding unauthorised operations involving treatment and manufacturing of plastic products that has since been discontinued at the Site and not related to the current proposed use. No workshop related operations are proposed under the current application. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the concerns on the possible environmental nuisances generated by the temporary use or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the

planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding area.

- 11.4 The Site was the subject of a previous application (No. A/YL-TT/401) on a slightly larger site for the same applied use (i.e. wholesale trade) as the current application but for different goods. Most of the approval conditions under the previous application had been complied with except for the implementation of the FSIs proposal resulting in the planning approval being revoked on 12.10.2019. According to the applicant, electricity supply for the FSIs to the Site was pending, which meant the full FSIs proposal could not be implemented in time. An F.S. 251 has already been obtained for the Site in the previous application, which has been submitted in support of the current application. In view of the above, sympathetic consideration may be given to this application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. Furthermore, the applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of the planning permission, sympathetic consideration might not be given to any further application. Given that there is one previous approval on the Site and one similar approval within the subject "OS" zone for the same wholesale trade use, approval of this application is generally in line with the Committee's previous decision.
- 11.5 No public comment was received during the first three weeks of the statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above, 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 17.1.2025. 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 workshop activities shall be carried out on the Site at any time during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, 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) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.4.2020;
- (g) in relation to (f) above, the implementation of the 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 17.7.2020;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.4.2020;
- (j) in relation to (i) above, the implementation of the 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 17.7.2020;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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
- (l) if any of the above planning conditions (f), (g), (i) or (j) 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 development is not in line with the planning intention of the "OS" zone, which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. There is no strong planning justification in the submission for 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 appendix and plans received on 28.11.2019
Appendix Ia	FI received on 7.1.2020 providing a F.S. 251 of the previous approved application and responses to TD
Appendix Ib	FI received on 10.1.2020 providing responses to TD
Appendix II	Previous Application covering the Site
Appendix III	Similar Application within the same “OS” zone on the OZP
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Plan showing the Vehicular Access leading to the Site
Drawing A-2	Site Layout Plan
Drawing A-3	Parking Arrangement Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2020**