

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/975

- Applicant** : Mr. LAM Tsz Shing represented by R-riches Property Consultants Limited
- Site** : Lots 1387 S.A RP, 1387 RP (Part), 1388 (Part), 1389 S.A RP (Part), 1389 RP (Part), 1396 S.A, 1396 S.B (Part) and 1396 RP (Part) in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 7,881 m² (about) (including about 37m² of GL)
- Lease** : (a) Block Government Lease (demised for house and/or agricultural use)

(b) New Grant Lot (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
- Zonings** : “Residential (Group A)1” (“R(A)1”)
[restricted to a maximum plot ratio of 6.5 and building height of 155mPD]
- Application** : Temporary Shop and Services (Motor-vehicle Showroom) 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 (motor-vehicle showroom) with ancillary office for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “R(A)1” zone, except on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building, ‘Shop and Services’ use is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a to A-4c**). The Site is not involved in any previous application.
- 1.2 According to the applicant, the outdoor motor-vehicle showroom with ancillary office is mainly to serve the nearby residents. All vehicles within the Site are licensed and the staff will drive the vehicles to the Site. The estimated maximum

number of staff and visitors at the Site are 8 and 20 respectively at any given time. No vehicle exceeding 5.5 tonnes, including container trailer, will be allowed to enter the Site. Also, no excavation/filling of land and car beauty, washing, cleansing, paint-spraying, repairing or other workshop activities will be conducted at the Site. Plans showing the vehicular access leading to the Site and the site layouts are at **Drawings A-1 to A-3** respectively.

1.3 The major development parameters of the current application are summarised as follows:

Site Area	7,881 m ² (about) (including about 37m ² of GL)
Total Floor Area (Non-domestic)	1,037 m ² (about)
No. and Height of Structures	7 <ul style="list-style-type: none"> • two ancillary site offices (3.5m, 1 storey) • one canopy for parking spaces (3m, 1 storey) • four canopies for some of the vehicles for sale (3m, 1 storey)
No. of Parking Spaces (for visitors' use)	5 (for private car) (2.5m x 5m)
Loading/Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m)
No. of Spaces for Displaying Licensed Vehicles for Sale	65 (4.5m x 7m)
Operation Hours	10:00 a.m. to 5:00 p.m. daily

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

- (a) Application Form with appendix and plans received on **(Appendix I)** 16.7.2019
- (b) Further Information dated 23.8.2019 providing **(Appendix Ia)** clarifications on the proposed operation and revised drawings
[accepted and exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Appendix I enclosed in the Application Form **(Appendix I)** and the Further Information **(Appendix Ia)**. They can be summarised as follows:

- (a) The application is for temporary use of three years and will not frustrate the long-term planning intention of the OZP. No undesirable precedent will be set since the Site will be reinstated for amenity use upon the expiry of the planning permission.
- (b) The proposal is compatible with surrounding uses. To reduce the impact on the surroundings, the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) will be followed. Should the application be approved, the applicant will fulfil approval conditions, if any, concerning submission and implementation of drainage proposal, landscape proposal and fire service installations (FSIs) proposal.
- (c) Sufficient manoeuvring space will be provided within the Site and no queuing and reverse movement of vehicles onto/from public roads is allowed. As car entry is on booking basis, traffic flow can be managed in an efficient manner. Furthermore, the Site is accessible by green minibus and no parking spaces are reserved for the staff members.

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 a notice at the Site and sending the notice to the Ping Shan 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 planning enforcement action.

5. Previous Application

There is no previous planning application covering the Site.

6. Similar Application

There is no similar application within the subject “R(A)1” zone.

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

7.1 The Site is:

- (a) accessible via Ma Fung Ling Road to its west (**Drawing A-1 and Plan A-2**);
- (b) paved and fenced off; and

- (c) currently occupied by the applied use (i.e. motor-vehicle showroom) without valid planning permission (**Plan 4a**).

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

- (a) comprise mainly residential developments/structures intermixed with open storage/storage yards, warehouses, a factory, parking of trucks/vehicles, graves, a construction site, woodland and vacant structure/land;
- (b) to its north, southwest, immediate south and immediate west are several residential developments/structures either under construction or completed, including Green Lodge and Jasper Court (**Plan A-2**);
- (c) there are warehouses, a factory and open storage/storage yards to its immediate south and west; and
- (d) except a factory to its immediate south, the other open storage/storage yards, warehouses and parking of trucks/vehicles in its vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “R(A)1” zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application and the public comments, where relevant, 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 Old Schedule Lots (OSLs) and a New Grant Lot. The mother lots of Lot Nos. 1387 S.A RP, 1387 RP, 1389 S.A RP and 1389 RP in D.D. 121 are OSL of house and agricultural status. Lot Nos. 1396 S.A, 1396 S.B and 1396 RP in D.D. 121 are OSL of agricultural status. OSL of agricultural status held under Block Government Lease contains the restriction that no structures are allowed to be erected without the prior approval of the Government. Apart from that, Lot No. 1388 in D.D. 121 is a New Grant lot which shall not be used for any purpose other than agricultural use.

- (b) No permission is given for occupation of GL (about 37 m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) Lot Nos. 1387 S.A RP and 1389 S.A RP in D.D. 121 are covered by Short Term Waiver (STW) No. 863 to permit structures erected thereon for the purpose of "Storage of Rubber Materials".
- (d) The Site is accessible from Ma Fung Ling Road via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on the 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. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by her department 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 her department.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.

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

- (a) The applicant should provide a run-in/out at Ma Fung Ling Road 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.

- (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) His department shall not be responsible for the maintenance of any access connecting the Site and Ma Fung Ling Road.

Environment

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

- (a) With respect to the public concern on the sewage problem (**Appendix II**), the applicant is reminded that suitable treatment facilities should be provided to handle sewage arising from the proposed use. Effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO shall be obtained before a new discharge is commenced. If septic tank and soakaway system are proposed, its design and construction should follow the requirements of the Professional Persons Environmental Consultative Committee Practice Note No. 5/93 (ProPECC PN 5/93) – “Drainage Plans Subject to Comment by the Environmental Protection Department”.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest Code of Practice issued by the Environmental Protection Department as appropriate to minimise any potential nuisances on the surrounding area.

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 application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of a drainage proposal for the development and maintenance of the implemented drainage facilities to the satisfaction of the 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. 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.

Landscape

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

With respect to the public comment (**Appendix III-2**), a site inspection has been conducted. It is noted that some existing trees of common species are identified within the Site. Should the Board approve this application, the applicant should be advised to maintain all existing trees within the Site at all times during the planning approval period. Since the Site is surrounded by other temporary open storage sites and there is no major public frontage along the site boundary, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Building Matters

9.1.8 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 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) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) 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.

- (iii) 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 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.
- (iv) 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.
- (v) 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.

Others

9.1.9 Comments of the Chief Engineer/Housing Projects 2, Civil Engineering and Development Department (CE/HP2, CEDD):

- (a) She has no adverse comment on the application.
- (b) The construction of site formation and infrastructure works at Phase 2 Public Housing Development under the Agreement No. CE 75/2017 (CE) "Site Formation and Infrastructure Works for Public Housing Development at Long Bin, Yuen Long – Investigation, Design and Construction" is targeted to commence in end 2022/early 2023 for completion in end 2025/early 2026 to facilitate Housing Department (HD)'s population intake in 2029.
- (c) The proposed use falls within the HD's Phase 2 Public Housing Development at Long Bin and does not conflict with the construction period of the latter. The applicant should ensure that the proposed use would not contaminate the Site as any contamination would seriously affect the construction programme of the site formation works.

9.1.10 Comments of the Director of Housing (D of Housing):

- (a) He has no objection to the application provided that it would not affect the implementation programme of the public housing development at the Site. His department stands ready to implement the Site for public housing development once it is made available to him.

- (b) The Site falls within an area which has already been identified by the Government for public housing development and the intended public housing use of the subject “R(A)1” zone has also been stated in the Explanatory Statement of the OZP.

District Officer’s Comments

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

His office received 12 feedbacks from the locals (**Appendix II**) objecting to the application on the grounds that the proposal would attract people from all walks of life; create traffic congestion; road safety/sewerage/environmental hygiene concerns; and the villagers were not consulted in advance.

- 9.2 The following government departments have no objection/no comment to the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (West), CEDD (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 23.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.8.2019, two comments were received from members of the public. The first comment (**Appendix III-1**) raised concerns on the traffic of large vehicles and pedestrian safety aspect. The remaining comment (**Appendix III-2**) objected to the application on the grounds that the application is a “destroy-to-build” development and large number of trees would be felled.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary shop and services (motor-vehicle showroom) with ancillary office at a site zoned “R(A)1” on the OZP. The proposal is not entirely in line with the planning intention of the “R(A)1” zone which is primarily for high-density residential development. Nevertheless, the applied use is intended to serve local residents and could meet any such demand in the area. Whilst the Site falls within HD’s Phase 2 Public Housing Development at Long Bin with construction of site formation and infrastructure works targeted to commence in end 2022/early 2023, the application is for temporary use of the Site from Q3 2019 to Q3 2022 only. In this connection, CE/HP2, CEDD advised that the development would not conflict with the construction period and therefore has no objection in principle on the proposal. D of Housing also has no objection to the application. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.

- 11.2 The development is considered not incompatible with the surrounding uses which comprise mainly residential developments/structures intermixed with open storage/storage yards, warehouses, a factory and parking of trucks/vehicles etc. (**Plans A-2 and A-3**).
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD and DEP, and significant adverse traffic, drainage, sewerage and environmental impacts on the surrounding area are not envisaged. Relevant approval conditions are recommended in paragraph 12.2 to address the public concerns and technical requirements of other concerned government departments to minimise any potential environmental nuisances. 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 application be approved, the applicant will also be advised to follow the latest Code of Practice in order to minimise any potential environmental impact on the surrounding area.
- 11.4 There are two public comments received on the application during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.3 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 comments mentioned in paragraph 10, the Planning Department has no objection to the temporary shop and services (motor-vehicle showroom) with ancillary office.
- 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 6.9.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no car beauty, washing, cleansing, paint-spraying, repairing or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (c) 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, as proposed by the applicant, 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) all existing trees with the Site shall be maintained at all times during the planning approval period;

- (f) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.3.2020.
- (g) in relation to (f) above, the implementation of run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.6.2020.
- (h) 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 6.3.2020;
- (i) in relation to (h) 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 6.6.2020;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) 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 6.3.2020;
- (l) in relation to (k) 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 6.6.2020;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (j) 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
- (n) if any of the above planning conditions (f), (g), (h), (i), (k) or (l) 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 development is not in line with the planning intention of the "R(A)1" zone, which is intended primarily for high-density residential developments. No strong planning justification has been given 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 16.7.2019
Appendix Ia	Further Information dated 23.8.2019 providing clarifications on the proposed operation and revised drawings
Appendix II	Feedbacks received by DO(YL), HAD
Appendices III-1 and III-2	Public Comments received during the statutory publication period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawings A-2 and A-3	Site Layout Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2019**