

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-KTN/718

- Applicant** : Yatlee Investments Limited
- Site** : Lots 232 S.B ss.9 and 232 S.B RP (Part) in D.D.103, Ko Po Tsuen, Kam Tin, Yuen Long
- Site Area** : About 229 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Village Type Development” (“V”)
[Maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Wheelchair Accessible Vehicles Showroom) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary shop and services (wheelchair accessible vehicles showroom) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is used for the applied use with valid planning permission.
- 1.2 The Site is the subject of a previous application for the same applied use for a period of 3 years which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2017. All the approval conditions have been complied with and the planning permission is valid until 22.9.2020.
- 1.3 According to the applicant, the applied development involves one single-storey structure with a total floor area of about 229m² and building height of about 4m for wheelchair accessible vehicles showroom use and ancillary office. Not more than 6 vehicles will be displayed at the Site. The operation hour is from 9:00 am to 6:00 pm daily, including public holidays. No vehicles exceeding 5.5 tonnes will

enter the Site. The Site is accessible to Kam Tin Road via a local track. The site layout plan with fire service installations proposal and elevation plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.4 Compared with the last approved application No. A/YL-KTN/574, the current application submitted by the same applicant is the same in terms of applied use, site area/boundary, number of structure and floor area. There is minor increase in building height from 3.5m to 4m (+0.5m/ +12.5%) to reflect the existing signboard.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form received on 18.6.2020 **(Appendix I)**
 - (b) Further Information (FI) dated 25.8.2020 in response to departmental comments **(Appendix Ia)**
(exempted from publication requirement)
 - (c) FI dated 4.9.2020 in response to departmental comments **(Appendix Ib)**
(exempted from publication requirement)
- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.8.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**, and are briefly summarized as follows:

- (a) There is not much affordable wheelchair accessible services in the market at present. In due recognition of the growing elderly population and the needs of the disabled, the applicant aims to promote mobility of those in need of better access services, hence enhancing their living standards.
- (b) Granting renewal approval of this application will continue the applicant's contribution to the concerned community groups and will help raise the awareness of the needs of the elderly and disabled.
- (c) The building height of the structure is proposed to be increased from 3.5m to 4m to accommodate the company signboard. Other than that, there is no change between this application and the last approved application. All approval conditions for the last approved application had been complied with.

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

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No.34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

5. Background

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

6. Previous Application

The Site is the subject of a previous application (No. A/YL-KTN/574) submitted by the same applicant for the same use for a period of 3 years. The application was approved with conditions by the Committee in 2017 mainly on the grounds that temporary approval would not jeopardize the planning intention of the “V” zone; the applied use was not incompatible with the surrounding land uses; and relevant departments consulted had no adverse comments. All approval conditions have been complied with and the planning permission is valid until 22.9.2020. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

7. Similar Applications

There are four similar applications within the same “V” zone on the west of the Site near Ying Ho Road for various temporary shop and services uses were approved with conditions by the Committee between 2012 and 2018 mainly on the grounds that temporary approval would not jeopardize the long-term planning intention of the “V” zone; the applied use was not incompatible with the surrounding land uses; and relevant departments consulted had no adverse comments. However, planning permission for applications No. A/YL-KTN/372 and 537 were revoked due to non-compliance with

approval conditions. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) occupied by a one-storey structure and used for the applied use with valid planning permission;
- (b) accessible via a short local track leading to Kam Tin Road.

8.2 The surrounding area is rural in character predominated by residential dwellings/structures, eating places, shop and services, parking of vehicles, open storage yards, workshop and unused land. Some of them are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its immediate east is unused land. Ko Po Tsuen is located to the further east;
- (b) to its north and west are residential dwellings/ structures including Kam Po Garden and Kam Fung Terrace, shop and services, eating places (with planning permission under application No. A/YL-KTN/606), restaurant on ground floor of village houses, an elderly centre and parking of vehicles; and
- (c) to its south across Kam Tin Road within the “Agriculture” zone are parking of vehicles, workshop and open storage yards.

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 reprovisioning 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 New Territories Exempted House (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 summarized as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD):

- (a) The Site comprises Old Scheduled 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) Lot Nos. 232 S.B ss.9 and 232 S.B RP in D.D. 103 are currently covered by Short Term Waiver (STW) No. 5056 to permit structures erected thereon for the purpose of “Temporary Shop and Services (Wheelchair Accessible Vehicles Showroom)”.
- (c) Should the application be approved, the STW owner(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.
- (d) There is no Small House application approved or under processing at the Site.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) 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” issued by DEP.
- (b) There is no environmental complaint concerning the Site received by DEP in the past three years.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Based on the applicant’s submission, the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTN/574.
- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/574 and the submission of a record of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, BD is not in a position to offer

comments on their suitability for the use related to the application.

- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with 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 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 Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5 wide, its permitted development intensity shall be determined under the Regulation 19(3) of the B(P)R at the building plan submission stage.

Fire Safety

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

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

District Officer's Comments

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

He has not received any comments from the locals and has no comments on the application.

10.2 The following Government departments have no comment on/ no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager/West, Civil Engineering and Development Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

11. Public Comment Received During the Statutory Publication Period

On 30.6.2020, the application was published for public inspection. During the three-week statutory publication period, one comment (**Appendix IV**) was received from an individual. The comment queries if the Site is being used for sale of wheelchair accessible vehicles instead of just old four wheels.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary shop and services (wheelchair accessible vehicles showroom) for a period of 3 years within the “V” zone. 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 this zone is primarily intended for development of Small Houses by indigenous villagers. Although the applied use is not entirely in line with the planning intention of the “V” zone, DLO/YL of LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The Site is at the fringe of the “V” zone and directly accessible to Kam Tin Road. The applied use with a single storey structure is considered not incompatible with the surrounding area which is rural in character predominated by residential dwellings/structures, eating places, shop and services and unused land.
- 12.3 The application is in line with the TPB PG-No. 34C in that all approval conditions of the last approved application (No. A/YL-KTN/574) have been complied with. Compared with the last approved application, the current application is the same in terms of applied use, site area/boundary, number of structure and floor area, except increase in building height from 3.5m to 4m (+0.5m/ +12.5%) to accommodate a large signboard. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 In view of the nature of the vehicle showroom and the location of the Site at the fringe of the village cluster and near Kam Tin Road, it is unlikely that the development would generate significant environmental nuisance to the surrounding area. Relevant departments consulted have no adverse comment on the application. To minimize the possible environmental nuisance generated by the development, approval conditions restricting the operations hours and types of vehicles are recommended in paragraph 13.2 (a) to (b) below. The applicant would

also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 13.2 (c) to (f).

- 12.5 There are also four similar applications for temporary shop and services within the same “V” zone approved with conditions by the Committee between 2012 and 2018.
- 12.6 One public comment was received during the statutory inspection period, raising concerns on the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment as mentioned in paragraph 11 above, the Planning Department has no objection to the temporary shop and services (wheelchair accessible vehicles showroom) for a period of 3 years.
- 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 3 years, and be renewed from 23.9.2020 to 22.9.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Board by 23.12.2020;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;

- (g) if any of the above planning condition (a), (b), (c), (d) or (f) 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
- (h) if the above planning condition (e) 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.

[The above planning conditions are largely the same as those under planning permission of previous Application No. A/YL-KTN/574, except change/deletion of those on drainage and fire services installations based on the comments of CE/MN of DSD and D of FS respectively.]

- 13.3 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 "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.

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 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 attachments received on 18.6.2020
- Appendix Ia** FI dated 25.8.2020

Appendix Ib	FI dated 4.9.2020
Appendix II	Previous application covering the Site
Appendix III	Similar applications within the same “V” zone
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory clauses
Drawing A-1	Layout Plan with Fire Services Installation Proposal
Drawing A-2	Elevation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**