

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/292

<u>Applicant</u>	: Mr. CHOI Yuet Wing represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 591 RP (Part) in D.D. 112, Shek Kong, Yuen Long
<u>Site Area</u>	: About 431 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Temporary Shop and Services (Solar Power System Shop) for a Period of 5 years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (solar power system shop) for a period of 5 years (**Plan A-1**) and to fill the entire Site which is required for the applied structures and circulation purpose (**Drawing A-3**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “V” zone, and planning permission from the Town Planning Board (the Board) is required for both the applied use and filling of land. The Site is currently used for the applied use without planning permission.
- 1.2 According to the applicant, the applied development consists of six single-storey (of about 3.3m to 3.8m high) structures with a total floor area of about 234m². Whilst four of them are enclosed structures used as solar panel system shop, site office and meeting room, the remaining two are shed structures used as rain shelters (canopy) (**Drawing A-2**). The entire Site has been filled up by not more than 0.1m and hard-paved for the said structures and circulation purpose (**Drawing A-3**). Two parking spaces for private cars and one loading/unloading space for light goods vehicles are provided on-site (**Drawing A-2**). The operation hours is from 9:00a.m. to 6:00p.m. daily. The Site is accessible via a local access branching off from Tung Wui Road and Shek Kong Airfield Road (**Drawing A-1**).

The location plan, layout plan and paving ratio plan are at **Drawings A-1 to A-3**.

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

- (a) Application Form with Planning Statement received on 6.10.2020 **(Appendix I)**
- (b) Further information (FI) received on 1.12.2020 **(Appendix Ia)**
(exempted from publication)

2. Justifications from the Applicant

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

- (a) there is a genuine local demand for the installation of solar panel system on the roofs of the village houses within Shui Lau Tin Tsuen. As such, the applied use could provide convenient services to the locals and promote renewable energy generation;
- (b) the applied use is considered not incompatible with the surrounding residential uses and will not create adverse impact to the surrounding area. Upon approval of the planning application, the applicant will make effort to comply with the approval conditions related to fire services and drainage aspects;
- (c) the estimated number of visitors would be about 10 per day, and there will be six staff at the Site. A total of 12 inbound and 12 outbound trips (by staff and visitors) per day are anticipated to be generated by the applied use. Advance appointment shall be made by visitors if they wish to drive to and park on the Site. As the traffic generation will be minimal, no adverse traffic impact is envisaged due to the applied use; and
- (d) the entire Site has been filled up by not more than 0.1m and hard-paved for the applied structures and circulation space since concrete surface could provide ground reinforcement to withstand the loading of structures, vehicles and solar panels.

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

The applicant is not the “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 (the Ordinance) (TPB PG-No. 31A) by posting site notice at the Site and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

While the Site is not subject to any active planning enforcement action, the Site is occupied by structures and storage of construction materials. Should there be sufficient evidence to prove that the current use on the Site constitutes an unauthorized development (UD) under the Ordinance, enforcement action may be instigated.

5. Previous Application

There is no previous application in respect of the Site.

6. Similar Application

There is no similar application for 'Shop and Services' use within the same "V" zone on the OZP.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

7.1 The Site is:

- (a) currently fenced, hard-paved and occupied by the applied use without planning permission; and
- (b) accessible via a local access branching off from Tung Wui Road and Shek Kong Airfield Road.

7.2 The surrounding areas are predominantly rural in character with mainly domestic dwellings/structures and unused land (**Plan A-2**):

- (a) to its immediate north are a local track and a nullah, and to its further north off the nullah is the Shek Kong Barracks;
- (b) to its east and south are mainly unused land and a few domestic dwellings/structures; and
- (c) to its west is a piece of unused land, and to its further west are a cluster of domestic dwellings and an area for parking of vehicles within the "Agriculture" ("AGR") zone.

8. Planning Intention

The planning intention of the "V" zone is primarily 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 the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the "V" 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 Houses. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (b) the Site falls within the Shui Lau Tin Site of Archaeological Interest (**Plan A-1**);
- (c) should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the applied 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 as 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 rent or fee, as may be imposed by LandsD; and
- (d) there is no Small House application approved or currently under processing at the Site.

Traffic

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

- (a) having regard to the FI (**Appendix Ia**), he has no comment on the application from traffic engineering perspective;
- (b) should the application be approved, approval condition that 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; and

- (c) the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department (TD). The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

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

Environment

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

- (a) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department to minimise any potential environmental nuisances; and
- (b) there is no environmental complaint concerning the Site received by DEP in the past three years.

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 public drainage point of view; and
- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal/facilities for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Heritage Conservation

9.1.6 Comments of the Antiquities and Monuments Office, Development Bureau (AMO, DEVB):

- (a) notwithstanding that the Site falls within Shui Lau Tin Site of Archaeological Interest (**Plan A-1**), AMO has no objection in principle to the application from heritage conservation perspective, taking into account the scope of work as well as the temporary nature of the applied structures; and
- (b) nevertheless, the applicant is required to inform AMO immediately if any antiquities or supposed antiquities are discovered within the Site during the course of work for the applied development and filling of land. Inspections by AMO may be conducted during the course of work.

Building Matters

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

for unauthorized building works (UBW) erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing 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 Buildings Ordinance (BO).

Fire Safety

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

- (a) he has no objection in-principle to the proposal subject to fire service installations being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, fire service installations (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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the applied structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officers' Comments

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

he has not received any comments from locals upon close of consultation and he has no particular comment on the application.

- 9.2 The following Government departments have no objection to/adverse comment on the application:
- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
 - (b) Director of Agriculture, Fisheries and Conservation (DAFC);
 - (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
 - (d) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
 - (e) Director of Electrical and Mechanical Services (DEMS); and
 - (f) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 13.10.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual (**Appendix II**) was received, objecting to the application on the ground that the applied use amidst residential cluster would adversely affect the rural living, ecology and environment.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (solar power system shop) for a period of 5 years (**Plan A-1**), with filling of land at the entire Site by not more than 0.1m for the applied structure and circulation space (**Drawing A-3**). The planning intention of the “V” zone is primarily 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 House development by indigenous villagers. Although the applied use is not entirely in line with the planning intention of the “V” zone, DLO/YL of LandsD advises that there is no Small House application approved or currently under processing at the Site. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.
- 11.2 According to the application, the applied use is to meet the local demand for installation of solar power system. The applied shop and services comprising six single-storey structures with a total floor area of 234m² is considered not incompatible with the surrounding areas which are predominantly rural in character and occupied by domestic dwellings/structures (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and AMO of DEVB have no adverse comment on/ no objection to the application from traffic, environmental, drainage, landscape and heritage conservation perspectives. It is anticipated that the applied development would not have significant adverse traffic, environmental, drainage, landscape and cultural heritage impacts on the surrounding areas. To minimize the possible environmental nuisance generated by the applied use, approval conditions

restricting the operation hours and types of vehicles entering the Site are recommended in paragraphs 12.2 (a) to (b) below. Moreover, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2 (c) to (h) below. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.

- 11.3 Regarding the one objecting public comment received during the statutory publication period, the departmental comments and planning considerations and assessment 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 comment in paragraph 10, 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 4.12.2025. 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 submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.6.2021;
- (e) in relation to (d) above, the implementation of the drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.9.2021;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.6.2021;

- (h) in relation to (g) above, the implementation of the fire service installation proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **4.9.2021**;
- (i) if any of the above planning condition (a), (b), (c) 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
- (j) if any of the above planning condition (d), (e), (g) or (h) 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 III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "V" zone which is primarily 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. No strong planning justification has been given in the submission to justify 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 received on 6.10.2020
Appendix Ia	Further information (FI) received on 1.12.2020
Appendix II	Public Comment
Appendix III	Advisory Clauses
Drawing A-1	Location Plan

Drawing A-2	Layout Plan
Drawing A-3	Paving Ratio Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**