

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

APPLICATION NO. A/YL-TT/418

- Applicant** : Mr. LAM Sun Tak
- Site** : Lots 4891 RP (Part), 4892 S.A, 4892 RP (Part) and 4893 (Part) in D.D. 116 and Adjoining Government Land, Tai Tong Road, Yuen Long, New Territories
- Site Area** : 502 m² (about) (including about 52 m² of Government land)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services (real estate agency) for a period of 3 years at the application site (the Site) for a further period of 3 years (**Plan A-1**). The Site is currently occupied for the applied use with valid planning permission under Application No. A/YL-TT/343 (**Plans A-2, A-4a and A-4d**).
- 1.2 The site was the subject of 3 previous applications (No. A/YL-TT/296, 301 and 343) by the same applicant. The last application (No. A/YL-TT/343) was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 16.1.2015. All the time-limited approval conditions under the last application have been complied with and the permission is valid up to 16.1.2018. Details of the previous applications are at paragraph 6 below and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.

1.3 The Site is abutting and accessible from Tai Tong Road to its west via a strip of Government land (GL) (**Plan A-2**). According to the applicant, the real estate agency aims to serve the local community. A plan showing the site location, a layout plan, a plan showing run-in/out and landscape proposals, and a plan showing the fire service installations proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.4 The major development parameters are as follows:

Applied Use	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years
Site Area	About 502 m ² (including Government land of about 52 m ²)
Total Floor Area (Non-domestic)	About 73.2 m ²
No. of Structures	5 (for office and toilet uses)
Height of Structures	2.5m (1 storeys)
No. of Parking Spaces	14 (for private car)

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

- (a) Application Form with attachments received on 21.11.2017 **(Appendix I)**
- (b) Further Information received on 28.12.2017 responding to Transport Department's comment and providing a revised layout plan **(Appendix Ia)**
- (c) Further Information received on 29.12.2017 providing clarification on site operation **(Appendix Ib)**
- (d) Further Information received on 5.1.2018 providing clarification on Small House applications on the Site **(Appendix Ic)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Item 8 enclosed in the application form (**Appendix I**) and further information received on 5.1.2018 (**Appendix Ic**). They can be summarized as follows:

- (a) The Site was granted planning permission (No. A/YL-TT/343) for the same use as the current application. All the approval conditions of the said permission have been complied with.
- (b) There is a demand for real estate agency services in Tai Tong. The development would provide opportunity for young real estate agents, whose entrepreneurship is commendable, to serve the rural community.
- (c) The Small House applications concerning the Site will take time to process and should not affect the current planning application.

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

The applicant is one of the “current land owners”. In respect of the other “current land owners”, the applicant 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. 31) by obtaining consent from the other “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The 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. 34B) are relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is still covered by a valid planning approval (No. A/YL-TT/343) and it is currently not subject to any active enforcement action.

6. Previous Applications

- 6.1 The Site was the subject of 3 previous applications submitted by the same applicant for temporary vehicles trading (open storage of used vehicles for sale with ancillary office) (No. A/YL-TT/296) and temporary shop and services (real estate agency) (No. A/YL-TT/301 and 343) uses. Details of the applications are summarized in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TT/296 for temporary vehicles trading (open storage of used vehicles for sale with ancillary office) for a period of 3 years was rejected by the Committee on 6.1.2012 for reasons, among others, that the applied use was not in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E); there was no information to demonstrate no adverse environmental and landscape impacts; and the development was incompatible with the surrounding.
- 6.3 The 2 subsequent applications (No. A/YL-TT/301 and 343) for the same shop and services use as the current application were approved with conditions for a period of 3 years by the Committee on 20.4.2012 and 16.1.2015 respectively, mainly on similar considerations of not incompatible with the surrounding land uses; not jeopardizing the long-term planning intention of the “V” zone; and no adverse comments from relevant Government departments. The planning permission No. A/YL-TT/301 was subsequently revoked due to non-compliance with approval conditions. All the time-limited approval conditions under the last application

(No. A/YL-TT/343) have been complied with and the permission is valid up to 16.1.2018.

- 6.4 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.

7. Similar Applications

- 7.1 There are a total of 6 similar applications (No. A/YL-TT/289, 302, 327, 344, 357 and 384) for various shop and services use in the subject “V” zone. Detailed information of the applications is at **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Applications No. A/YL-TT/289, 302 and 327 for temporary shop and services (real estate agency), and Application No. A/YL-TT/384 for proposed temporary shop and services (local provision store with ancillary storage area and real estate agency) were approved with conditions by the Committee or allowed by the Town Planning Appeal Board for periods of 12 months to 3 years on 19.8.2011, 20.4.2012, 22.12.2015 and 29.7.2016 respectively. However, the planning permissions under Applications No. A/YL-TT/289, 302, and 327 were revoked due to non-compliance with approval conditions.
- 7.3 Applications No. A/YL-TT/344 and 357 for temporary shop and services (real estate agency/environmental consultancy and landscaping services) were rejected by the Board on review on 15.5.2015 and 3.6.2016 respectively mainly on the grounds that approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent.

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

- 8.1 The Site is:
- (a) accessible from Tai Tong Road to its west via a strip of Government land;
 - (b) paved and partially fenced off; and
 - (b) currently occupied for the applied use with valid planning permission under Application No. A/YL-TT/343.
- 8.2 The surrounding areas have the following characteristics:
- (a) the surrounding areas are predominated by residential dwellings, car parks, a few open storage/storage yards and warehouses, a kindergarten, real estate agency, cultivated/fallow agricultural land and vacant/unused land;
 - (b) there are residential structures in the vicinity of the Site, with the nearest one located about 5 m to its east;

- (c) to the immediate south of the Site is a structure occupied for storage use;
- (d) to the west of the Site across Tai Tong Road in the adjacent “V” zone is a real estate agency operating under Application No. A/YL-TT/371;
- (e) except for the storage to the southwest of the Site which is an “existing use” tolerated under the Town Planning Ordinance, the other open storages/storage, warehouses, workshops and car parks in the vicinity of the Site are mostly suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 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. 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, LandsD):

- (a) The Site comprises Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 4892 S.A, 4892 RP and 4893 in D.D. 116 are covered by Short Term Waivers (STWs) No. 4338, 4340 and 4341 respectively to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”.
- (c) The GL adjoining Lot No. 4891 RP in D.D. 116 within the Site is covered by Short Term Tenancy (STT) No. 2910 for the purpose of “Temporary Shop and Services (Real Estate Agency)”.
- (d) Portion of Lot No. 4891 RP in D.D. 116 is covered by Short Term Waiver (STW) No. 633 to permit structures erected thereon for the purpose of “Kindergarten”.

- (e) The Site is accessible to Tai Tong Road via GL. His office does not provide maintenance work for GL involved and does not guarantee right-of-way.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) There are 3 Small House applications located within boundary of the Site and 2 such applications within the 30m radius circle of the Site under processing. The Small House applications are still in preliminary stage. His office has no comment on the application provided that the Site will be available in case the Small House applications are eventually approved by his office.
- (g) Should planning approval be given to the subject planning application, the STW/STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site and the lot owner(s) of the lot(s) without STW will need to apply to his office for permit the structures to be erected or regularize any irregularities on the Site. Such application(s) will be considered by LandsD acting in the capacity as landlord 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.

Traffic

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

The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no vehicle queuing and no reverse movement on public road are allowed.

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

- (a) The access arrangement should be commented by TD.
- (b) 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 is not and shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Tai Tong Road.

Environment

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

The latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department should be observed by the applicant.

Drainage

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

- (a) Based on the submission enclosed in the application, the applicant would maintain the existing drainage facilities.
- (b) In view of the above, he has no objection in principle to the proposed development. Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities and 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 stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) Furthermore, the fire service installations (FSIs) proposal attached to the application is considered acceptable to him. The applicant is advised that the installation/ maintenance/ modification/ repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.
- (c) In addition, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the structures existing at the site and BD is not in a position to

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

- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under the application.
 - (ii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the site, the prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with BO.
 - (iii) 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 works or UBW on the site under BO.

Others

10.1.8 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no comment on the application from electricity supply safety aspect.
- (c) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The parties concerned should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

10.1.9 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

CEDD and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) - Investigation" (the Study). The Site falls within the Study Area of YLS but outside the development area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

District Officer's Comments

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

The local consultation has been completed and his office has not received any comments from village representatives in the vicinity regarding the application.

10.2 The following Government departments have no comments on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Commissioner of Police.

11. Public Comments Received During the Statutory Publication Period

On 28.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 19.12.2017, two public comments (**Appendices V-1 to V-2**) were received from a member of the public and a resident of Shung Ching San Tsuen objecting to the application on traffic, environmental and public security grounds.

12. Planning Considerations and Assessments

12.1 The subject application is for renewal of the planning permission under previous Application No. A/YL-TT/343 for temporary shop and services (real estate agency) at a site zoned "V" on the OZP. The planning intention of the "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. The applied use is considered not entirely in line with the planning intention of the "V" zone. However, it could provide real estate service to serve the needs of the locals and neighbouring residential developments. Whilst there are 3 Small House applications under processing on the Site, DLO/YL, LandsD advises that they are still in preliminary stage and his office has no comment on the application provided that the Site will be available in case the Small House applications are eventually approved by his office. As such, the proposed development, which is temporary in nature, would not jeopardise the long-term planning intention of the "V" zone.

- 12.2 The applied development is not incompatible with the surrounding uses which are predominantly rural residential uses mixed with car parks, a few open storage/storage yards and warehouses, a kindergarten, a real estate agency, some agricultural land and vacant/unused land.
- 12.3 The application is generally in line with TPB PG-No. 34B in that there has been no material change in planning circumstances since the granting of the previous approval under Application No. A/YL-TT/343; the approval conditions have been complied with; and the 3-year approval period sought is of the same timeframe as the previous approval.
- 12.4 Government departments consulted, including DEP, C for T, CHE/NTW of HyD, CE/MN of DSD, and D of FS, have no objection to or adverse comment on the application. Significant adverse environmental, traffic, landscape and drainage impacts on the surrounding area are not envisaged. To minimize any possible environmental nuisances generated by the temporary use or to address the technical requirements of other concerned government departments, relevant approval conditions are also recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development 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 on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 12.5 Given that the Committee has approved 2 applications (No. A/YL-TT/301 and 343) for the same use covering the same site and 4 other similar applications in the same “V” zone, approval of the renewal application is also in line with the Committee’s previous decisions.
- 12.6 There are two public comments (**Appendices V-1 and V-2**) received raising concerns on traffic, environmental and public security aspects. In this regard, C for T, DEP and C of P have no objection to or no adverse comment on the application. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are also relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary shop and services (real estate agency) could be tolerated 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 further period of 3 years from 17.1.2018 to 16.1.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (d) the existing landscape planting on the Site shall be maintained at all time during the approval period;
- (e) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (f) 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 Town Planning Board by 17.4.2018;
- (g) the implementation of the accepted fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 17.7.2018;
- (h) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (i) if any of the above planning conditions (f) or (g) 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; and
- (j) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[Approval conditions (a) and (g) are the same as those under the permission for Application No. A/YL-TT/343, while conditions (b) to (f) are updated to accord with the department's latest requirements. As the parking arrangement and run-in/out proposals have already been duly implemented under the previous permission (No. A/YL-TT/343), there would be no need to stipulate approval conditions on these aspects under the current permission.]

Advisory clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

the planning intention of the "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 21.11.2017
Appendix Ia	Email dated 28.12.2017 with response to Transport Department's comment and a revised layout plan
Appendix Ib	Email dated 29.12.2017 with clarification on site operation
Appendix Ic	Letter dated 5.1.2018 with clarification on Small House applications on the Site
Appendix II	Relevant extract of the 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. 34B)
Appendix III	Previous applications covering the application site
Appendix IV	Similar Applications within the Same "V" Zone on the OZP
Appendices V-1 and V-2	Public comments received during statutory publication period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Plan showing the proposed run-in/out, parking arrangement and landscaping proposal for the development
Drawing A-4	Fire service installations proposal

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2018**