

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

APPLICATION NO. A/YL-TT/455

<u>Applicant</u>	: Eastford (China) Development Limited
<u>Site</u>	: Lot 4888 RP (Part) in D.D. 116 and Adjoining Government Land (GL), Tai Tong, Yuen Long, New Territories
<u>Site Area</u>	: 44.77m ² (about) (including about 4m ² GL)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zoning</u>	: “Village Type Development” (“V”) [restricted to a maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: 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) at the application site (the Site) for a further period of 3 years (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires permission from the Town Planning Board (the Board). The Site is currently occupied for the applied use and is covered by a valid planning permission under Application No. A/YL-TT/371 (**Plans A-2 and A-4**).
- 1.2 The Site was involved in 3 previous applications (No. A/YL-TT/298, 310 and 371) for temporary open storage and shop and services uses respectively. The last application (No. A/YL-TT/371) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board (the Board) for a period of 3 years on 5.2.2016 with validity up to 15.3.2019. Details of the previous applications are at paragraph 6 below and **Appendix III**.
- 1.3 The major development parameters of the current application, which are same as

the last planning permission, are as follows:

Applied Use	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years
Site Area	About 44.77 m ² (including GL of about 4m ²)
Total Floor Area (Non-domestic)	About 43.77m ²
No. of Structures	1
Height of Structure	4.07m (1 storey)
No. of Parking Spaces	Nil
No. of loading/unloading Spaces	Nil
Operation Hours	10:00 a.m. to 8:00 p.m. daily

- 1.4 The Site is located next to the junction of Tai Tong Road and Sham Chung Road (**Plan A-2** and **Drawing A-1**). According to the applicant, the real estate agency will accommodate about 3 staff members without the need for any parking spaces. The proposed site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Plans received on 12.12.2018 (**Appendix I**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**. They can be summarised as follows:

The subject application is for the continuation of the real estate use at the Site. The operation hours of the site will remain unchanged from 10:00 a.m. to 8:00 p.m. daily.

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

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**

Since the Site is covered by valid planning permission (No. A/YL-TT/371) it is currently not subject to any planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

6. **Previous Applications**

- 6.1 The Site was the subject of 3 previous applications (No. A/YL-TT/298, 310 and 371) for temporary open storage or shop and services uses submitted by the same applicant as the current application. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TT/298 for temporary open storage of site tools and materials and site office involving a larger site covering both the subject site and a large portion of the adjoining GL was rejected by the Committee on 20.1.2012. The reasons for rejection are summarised in **Appendix III**.
- 6.3 Application No. A/YL-TT/310 for temporary shop and services (real estate agency) use covering the same site as the current application was approved with conditions by the Committee for a period of 3 years on 15.3.2013 on the considerations that the proposed development could provide real estate agency service to serve some of the local needs; temporary approval would not jeopardise the planning intention of the “V” zone; it was not incompatible with the surrounding uses; and adverse impacts were not envisaged. All the time-limited approval conditions have been complied with and the permission was valid until 15.3.2016.
- 6.4 The last application (No. A/YL-TT/371) was a renewal application for the same use on the same site, which was approved with conditions by the Committee for a period of 3 years on 5.2.2016 mainly on similar considerations as before. All the time-limited approval conditions have been complied with and the permission is valid up to 15.3.2019.
- 6.5 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site and the site layout and development parameters remain unchanged.

7. **Similar Application**

There is no similar application within the subject “V” zone.

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

- 8.1 The Site is:
 - (a) at the junction of Tai Tong Road and Sham Chung Road with direct access

from the roads (**Plan A-3**);

- (b) formed and paved; and
- (c) currently occupied by the applied use with valid planning permission under Application No. A/YL-TT/371 with validity up to 15.3.2019 (**Plans A-2 and A-4**).

8.2 The surrounding areas have the following characteristics:

- (a) rural in character comprising predominantly residential structures/dwellings intermixed with some car parks/parking of vehicles, real estate agency, office, store, kindergarten, workshop, warehouse, storage, some agricultural land and vacant land/structures (**Plan A-2**);
- (b) to the further east across Tai Tong Road in the adjoining “V” zone is a real estate agency operated with planning approval under Application No. A/YL-TT/418;
- (c) to the north of the Site are areas used for parking of vehicles;
- (d) to its west are residential structures/dwellings with the nearest ones located at about 30m to the northwest of the Site (**Plan A-2**); and
- (e) except for the storage located to its further south across Sham Chung Road and storage and parking of vehicles, store and kindergarten across Tai Tong Road which are tolerated under the Town Planning Ordinance, the other storage, workshop, office and car parks in the vicinity are suspected unauthorised 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 recognised 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. 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 summarised as follows:

Land Administration

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

- (a) The Site comprises GL and 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) Within the Site, the private Lot 4888 RP in D.D. 116 is covered by Short Term Waiver (STW) No. 3932 which permits the structure(s) erected thereon for the purpose of 'temporary shop and services (real estate agency)'. The GL included in the Site is covered by Short Term Tenancy (STT) No. 2784 for the same purpose.
- (c) The Site is accessible from Tai Tong Road via GL. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) There is no Small House application (SH) approved or currently under processing at the Site.
- (f) Should planning approval be given to the subject application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her department acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 her department.

Traffic

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

Since no vehicular access and parking space is proposed, he has no comment on the application from traffic engineering point of view.

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

- (a) It is noted from the applicant that no run-in/out and direct vehicular access to the Site are proposed.
- (b) As there is no vehicular access proposed/granted under the application, he has no comment from highways maintenance point of view.

Environment

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

The applicant should observed the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) issued by the Environmental Protection Department.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) The applicant is reminded to provide his own drainage facilities to collect the runoff generated from the site or passing through the site, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities. The applicant is also reminded to consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works.

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) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.

- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the structures existing at the site, he is not in position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant to record of approval by the Building Authority
 - (i) If the existing structures (not being a NTEH) are erected on leased land without approval of BD, they are unauthorised building works (UBW) under the BO and should not be designated for any approved use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the site under the BO.
 - (iii) Before any new building works (including containers/open sheds as temporary buildings) 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

10.1.8 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) In response to the relevant public comments (**Appendix IV-1 to 2**), the general cleansing condition in the vicinity of the Site is considered acceptable.
- (b) The applicant should arrange disposal properly at his own expenses for any waste generated from such work/operations and refrain from causing any environmental nuisance, pest infestation and obstruction to the surrounding.

District Officer's Comments

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

His office has not received any public comments on the application during the local consultation period.

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

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

11. Public Comments Received During the Statutory Publication Period

On 21.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 11.1.2019, three objecting public comments (**Appendix IV-1 to 3**) were received from the general public objecting the application for the reasons that the development would attract people of different backgrounds to the area and cause environmental hygiene problems and traffic congestion, thus affecting the nearby residents.

12. Planning Considerations and Assessments

12.1 The subject application is for renewal of the planning permission under previous Application No. A/YL-TT/371 for temporary shop and services (real estate agency) for a period of 3 years at a site zoned "V" on the OZP. Although the applied use is not entirely in line with the planning intention of the "V" zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion and for development of Small Houses by indigenous villagers, nevertheless, it could provide real estate service to meet any such demand in the area. Moreover, the subject proposal is for shop and services (real estate agency) of a temporary nature only, the continuation of the applied use for a further period of 3 years would not frustrate the long-term planning intention of the area.

- 12.2 The Site abuts two public roads and is considered not incompatible with the surrounding uses which are predominantly rural residential mixed with real estate agency, kindergarten, agricultural land, vacant/unused land and scattered vehicle parks and storage (**Plan A-2**).
- 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/371; 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 There is no adverse comment on the application from concerned government departments and significant adverse environmental hygiene, traffic, landscape and drainage impacts on the surrounding area are not envisaged. FEHD considers the general cleansing condition in the vicinity of the Site as acceptable. Furthermore, relevant approval conditions are also recommended in paragraph 13.2 to address the technical requirements of the concerned departments and to minimise any possible environmental concerns arising from the applied use. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development 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 Code of Practice in order to minimise any potential environmental impact.
- 12.5 Given that two previous approvals for the same applied use has been granted to the Site, approval of the current application is in line with the Committee's previous decisions.
- 12.6 There are three public comments objecting to the application as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are also relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary shop and services (real estate agency) could be tolerated for a further 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 16.3.2019 to 15.3.2022. 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 parking of vehicles, as proposed by the applicant, is allowed on the site at any time during the planning approval period;

- (c) the submission of 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 16.9.2019;
- (d) in relation to (c) above, the implementation of fire service installations proposal within **9** 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 16.12.2019;
- (e) if any of the above planning conditions (a) or (b) 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;
- (f) if any of the above planning conditions (c) or (d) 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
- (g) 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) to (g) are the same as those under the permission for Application No. A/YL-TT/371.]

Advisory clauses

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

- 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 designate both existing recognised 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 to justify 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 for renewal of the planning 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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with Plans received on 12.12.2018
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 Site
Appendix IV-1 to 3	Public Comments received during the Statutory Publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**