

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1124

<u>Applicant</u>	: Tomorrow View (Investment) Limited represented by R-riches Planning Limited
<u>Site</u>	: Various Lots in D.D. 103 and Adjoining Government Land (GL), Ko Po Tsuen, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 1,650m ² (including GL of about 741m ² (45%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Village Type Development” (“V”) (95%) <i>[restricted to a maximum building height (BH) of 3 storeys (8.23m)]</i> “Residential (Group B)” (“R(B)”) (5%) <i>[restricted to a maximum domestic gross floor area (GFA) of 79,497m², a maximum non-domestic GFA of 2,215m² and a maximum BH of 12 storeys]</i>
<u>Application</u>	: Temporary Shop and Services and Eating Place with Ancillary Parking for a Period of Three Years

1. **The Proposal**

- 1.1 The applicant seeks planning permission for temporary shop and services and eating place with ancillary parking for a period of three years at the application site (the Site), which falls within an area mainly zoned “V” (95%) with a minor portion zoned “R(B)” (5%) on the OZP (**Plan A-1**). According to the Notes of the OZP for the “V” and “R(B)” zones, ‘Shop and Services’ and ‘Eating Place’ (both being not on the ground floor of a New Territories Exempted House (NTEH) within “V” zone) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently hard-paved and occupied by the applied uses with some temporary structures erected and involving part of an existing local track without valid planning permission (**Plans A-2 to A-4**).

- 1.2 The Site is accessible from Ying Ho Road via a local track with the ingress in the northwest, and the egress of the Site to Kam Tin Road is in the south (**Plans A-1a, A-2 and A-3**). According to the applicant, the applied uses involve six

single-storey structures with height of not more than 7m and a total floor area of about 566m² for shop and services (retail shop, convenience shop, pet salon, bicycle sales store and real estate agency) and eating place (including open shed shelters for outside seating accommodation) (**Drawing A-1**). 17 parking spaces for private car and one loading/unloading space for light goods vehicle will be provided at the Site. Concrete barrier will be installed in the south-western corner of the Site to prohibit direct vehicular access to and from Kam Tin Road other than the designated ingress/egress points (**Drawing A-1**). The operation hours are between 7:00 a.m. and 11:00 p.m. daily, including Sundays and public holidays. Plan showing the site layout submitted by the applicant is on **Drawings A-1**.

1.3 The Site, in whole or in part, is involved in 21 previous applications (details at paragraph 6 below), including the last application No. A/YL-KTN/736 for the same uses submitted by the same applicant as the current application which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2020, with the planning permission subsequently revoked in 2022 due to non-compliance with approval conditions. Compared with the last application, the current application involves the same site area/boundary and a similar layout with reduction in number of structures (-1/-14%) and total floor area (-41m²/-7%).

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

- (a) Application Form with attachments received on 27.5.2025, (**Appendix I**) 2.6.2025 and 5.6.2025
- (b) Further Information (FI) received on 18.9.2025* (**Appendix Ia**)
- (c) FI received on 26.11.2025* (**Appendix Ib**)
- (d) FI received on 17.12.2025* (**Appendix Ic**)
- (e) FI received on 5.1.2026* (**Appendix Id**)

** accepted and exempted from publication and recounting requirements*

1.5 On 18.7.2025 and 7.11.2025, the Committee agreed to defer making a decision on the application for two months each as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Id**, and can be summarised as follows:

- (a) The applied uses can serve the locals and workers nearby. The Site is located at the fringe of Ko Po Tsuen and the applied uses are not incompatible with the surrounding areas.
- (b) Adverse impacts on the surrounding areas are not anticipated. In support of the current application, the applicant has submitted record of the existing drainage facilities and fire service installations (FSIs) proposal.
- (c) Regarding the Lands Department (LandsD)'s concerns on lease breaches, the

applicant will take appropriate follow-up and rectification actions including submission of Short Term Tenancy (STT) and Short Term Waiver (STW) applications to LandsD after approval of the current application.

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

The applicant is not a ‘current land owner’ but has complied with the requirement 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. 31B) by posting site notice and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the ‘Owner’s Consent/Notification’ Requirements are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Eating Place within “V” Zone in Rural Areas under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 15A) are relevant to the application, and the relevant extracts are at **Appendix II**.

5. Background

The Site is subject to active planning enforcement action (No. E/YL-KTN/730) against unauthorized development (UD) involving uses for eating place, shop and services, place for parking vehicles and storage (**Plan A-2**). Enforcement Notice was issued on 9.6.2025 requiring discontinuation of the UD by 9.9.2025. Site inspection on 10.11.2025 revealed that the UD still continued upon expiry of the notice, and prosecution is being considered.

6. Previous Applications

6.1 The Site, in whole or in part, is involved in 21 previous applications. 13 applications (No. A/YL-KTN/4, 26, 68, 102, 126, 145, 227, 280, 309, 315, 334, 411 and 412) were for temporary open storage or vehicle park (**Plan A-1b**), amongst which applications No. A/YL-KTN/4, 309 and 315 were rejected by the Committee between 1995 and 2009 whilst the other applications were approved by the Committee or the Board upon review between 1997 and 2013. The considerations of these 13 applications are not relevant to the current application due to different use involved.

6.2 The remaining eight previous applications (No. A/YL-KTN/368, 372, 408, 416, 497, 537, 606 and 736) were for temporary shop and services and/or eating place (**Plan A-1c**), which were all approved with conditions by the Committee between 2011 and 2020 mainly on the considerations that the proposed/applied use(s) would not jeopardise the long-term planning intention of the “V” zone; the area within “R(B)” zone was a local track (for applications involving “R(B)” zone); the proposed/applied use(s) was not incompatible with the surrounding areas; the relevant government departments consulted generally had no adverse comment or

their concerns and public comments, if any, could be addressed by approval conditions; and the application was in line with TPB PG-No. 15A (for applications involving eating place in the “V” zone). Amongst these eight applications, the planning permissions under applications No. A/YL-KTN/372, 497, 537 and 736 were subsequently revoked between 2012 and 2022 due to non-compliance with approval conditions. In particular, the last application No. A/YL-KTN/736 was submitted for the same uses by the same applicant as the current application and the planning permission was revoked due to non-compliance with approval conditions related to submission and/or implementation of drainage record and FSIs proposal. Compared with the last application, the proposal under the current application is largely similar as mentioned in paragraph 1.3 above. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plans A-1b** and **A-1c**.

7. Similar Applications

There are two similar applications for temporary shop and services (including one renewal of temporary approval granted) within the same “V” zone in the vicinity of the Site in the past five years, which were approved with conditions by the Committee in 2023 and 2025 respectively mainly on the similar considerations as mentioned in paragraph 6.2 above. There is no similar application within the same “R(B)” zone. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) located at the fringes of the subject “V” and “R(B)” zones (**Plan A-2**);
- (b) currently hard-paved and occupied by the applied uses with some temporary structures erected without valid planning permission; and
- (c) accessible from Ying Ho Road via a local track with the ingress in the northwest, and the egress of the Site to Kam Tin Road is in the south. The south-western portion of the Site within the “R(B)” zone forms part of the said local track which runs along the roadside of Ying Ho Road in the same “R(B)” zone and connects to Ying Ho Road and other areas of Ko Po Tsuen (**Plans A-2** and **A-3**).

8.2 The surrounding areas are sub-urban in character with an intermix of village settlements of Ko Po Tsuen to the north and east; a medium-rise residential development namely Riva within the “R(B)” zone and a works site for planned residential development (with valid planning permission under application No. A/YL-KTN/964) within the “R(E)” zone to the northwest across Ying Ho Road; and open storage, car services, vehicle repair workshop, site office and tyre shop to the southeast across Kam Tin Road (**Plans A-2** and **A-3**).

9. Planning Intentions

9.1 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 ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9.2 The planning intention of the “R(B)” zone is primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses, if any, are provided at **Appendices IV** and **V** respectively.

10.2 The following government department has adverse comments on the application:

Land Administration

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

(a) has adverse comments on the application;

(b) the Site comprises GL and Old Schedule Agricultural Lots No. 216 S.S ss.2 RP, 216 S.S RP, 237 S.B RP, 237 S.B ss.3 RP, 237 S.B ss.3 S.A, 237 S.B ss.4 S.A, 237 S.B ss.4 S.B, 237 S.B ss.4 RP, 237 S.B ss.5 RP, 237 S.B ss.11 RP, 237 S.B ss.12 RP, 237 S.B ss.13 RP and 237 S.B ss.14 RP all in D.D. 103 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;

(c) within the Site, there are STW and STT covering private lots and adjoining GL. Details are listed below:

STW/STT No.	Lots No./GL in D.D. 103	Permitted Uses
STW2941	216 S.S ss.2 RP, 216 S.S RP, 237 S.B ss.4 S.B and 237 S.B ss.4 RP	i. Temporary eating place (outside seating areas) and ancillary parking spaces; and

STW/STT No.	Lots No./GL in D.D. 103	Permitted Uses
		ii. Temporary shop and services (real estate agency, pet salon, bicycle sales store and convenience store)
STW2943	237 S.B ss.11 RP	Ancillary use to motor vehicle park (excluding heavy goods vehicles and container trailers and tractors)
STW4668	237 S.B ss.3 RP, 237 S.B ss.12 RP, 237 S.B ss.13 RP and 237 S.B ss.14 RP	i. Temporary eating place (outside seating areas) and ancillary parking spaces; and ii. Temporary shop and services (real estate agency, pet salon, bicycle sales store and convenience store)
STT3032	GL	Temporary eating place (outside seating areas) and ancillary parking spaces
STT3041	GL	i. Temporary shop and services (real estate agency, pet salon, bicycle sales store and convenience store); and ii. Temporary eating place (outside seating areas) and ancillary parking spaces

- (d) no permission is given for occupation of GL (741m² as mentioned in the applicant's submission) not covered by STTs No. 3032 and 3041 (about 404m²) included in the Site. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28);
- (e) there is/are unauthorized structure(s) within Lot No. 237 S.B ss.5 S.A not covered by the application. The lot owner(s) should immediately rectify/apply for regularisation on the lease breaches and his office reserves the right to take necessary lease enforcement action against the breaches without further notice;
- (f) there is no Small House application approved or under processing at the Site; and
- (g) advisory comments are at **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 6.6.2025, the application was published for public inspection. During the statutory public inspection period, a public comment was received from an individual objecting to the application mainly on the grounds that the approval conditions under the previous application were not complied with (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary shop and services and eating place with ancillary parking for a period of three years at the Site mainly zoned “V” (95%) with a minor portion zoned “R(B)” (5%) (**Plan A-1a**). Whilst the applied uses are not in line with the planning intentions of the “V” and “R(B)” zones, according to the applicant, the applied uses are intended to serve the locals and workers nearby. DLO/YL, LandsD advises that there is no Small House application approved or under processing at the Site. It is considered that approving the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone. Besides, the minor portion of the Site falling within the “R(B)” zone is part of the existing local track connecting to Ying Ho Road and other areas of Ko Po Tsuen. Taking into account the above and the planning assessments below, there is no objection to the applied uses on a temporary basis of three years.
- 12.2 The applied uses are considered not incompatible with the surrounding areas which are sub-urban in character with an intermix of village settlements, residential development, works site, open storage, car services, vehicle repair workshop, site office and tyre shop. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that no significant landscape impact arising from the applied uses is anticipated.
- 12.3 Other relevant government departments consulted, including the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD), Commissioner for Transport, Director of Environmental Protection, Director of Food and Environmental Hygiene and Director of Fire Services (D of FS), have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below. It is also recommended to advise the applicant to follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimise any potential environmental nuisance caused by the applied uses. Regarding DLO/YL, LandsD’s concerns on the unauthorized structures on the concerned lot outside the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.4 The application is considered generally in line with TPB PG-No. 15A in that the applied eating place at the Site is located at the fringe of the “V” zone and readily accessible via Ying Ho Road which would unlikely cause inconvenience to the residents nearby. The relevant government departments consulted generally have no objection to or no adverse comment on the application and the concerns of DLO/YL, LandsD can be addressed as mentioned in paragraph 12.3 above.

12.5 The Site, in whole or in part, is involved in eight relevant approved previous applications for temporary shop and services and/or eating place, including the last application No. A/YL-KTN/736 submitted by the same applicant as detailed in paragraph 6.2 above. Whilst the planning permission under application No. A/YL-KTN/736 was revoked due to non-compliance with approval conditions related to submission and/or implementation of drainage record and FSIs proposal, in support of the current application, the applicant has submitted the drainage record and FSIs proposal which are considered acceptable by CE/MN, DSD and D of FS respectively. In this regard, sympathetic consideration may be given to the current application. Should the application be approved by the Committee, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

12.6 There are two approved similar applications for temporary shop and services within the same “V” zone in the vicinity of the Site in the past five years as mentioned in paragraph 7 above. Approving the current application is in line with the Committee’s previous decisions.

12.7 Regarding the public comment as mentioned in paragraph 11, the departmental comments and planning assessments above are relevant.

13. Planning Department’s View

13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, PlanD has no objection to the application.

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 three years until 23.1.2029. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (b) the implementation of the accepted fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.10.2026;
- (c) if the above planning condition (a) 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
- (d) if the above planning condition (b) 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 V**.

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

the applied uses are 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. There is no strong planning justification 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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with attachments received on 27.5.2025, 2.6.2025 and 5.6.2025
Appendix Ia	FI received on 18.9.2025
Appendix Ib	FI received on 26.11.2025
Appendix Ic	FI received on 17.12.2025
Appendix Id	FI received on 5.1.2026
Appendix II	Relevant extracts of TPB PG-No. 15A
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan

Plan A-1a	Location plan
Plan A-1b	Previous application plan (temporary open storage/vehicle park)
Plan A-1c	Previous application plan (shop and services/eating place)
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

PLANNING DEPARTMENT

JANUARY 2026