

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/137

<u>Applicant</u>	: Able Smart Properties Limited represented by Allgain Land Planning Limited
<u>Site</u>	: Lot 240 S.B. (Part) in D.D. 385, Tai Lam Chung Tsuen, Tuen Mun, New Territories
<u>Site Area</u>	: 843m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/15
<u>Zoning</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m), except for those developments/uses specified in the Notes]</i>
<u>Application</u>	: Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services for a period of three years at the application site (the Site) zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than those on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is hard paved and currently used for the applied use without valid planning permission (**Plans A-1, A-4a and A-4b**).
- 1.2 The Site is bisected into two portions (i.e. eastern and western portions) by and accessible from Tai Lam Chung Road which connects to Castle Peak Road in the southwest (**Plans A-1 and A-2**). According to the applicant, the applied use comprises five two-storey container-converted structures (not more than 7m high) each with individual access, for selling daily necessities and advertisement shop as well as two canopy tents (not more than 5m high) for shelters. The advertisement shop features also a katool lift of not more than 4m in height for transporting of signboards. The total floor area is about 562m². No food and beverage services will be provided. One new tree is proposed at the northwestern part of the Site while an existing tree within the Site will be retained. No vehicle parking space will be provided but two loading/unloading spaces for light goods vehicle (7m x 3.5m) (i.e.

on the eastern portion)/van-type vehicle (5m x 2.5m) (i.e. on the western portion) will be provided at the Site for transporting of goods. The operation hours are between 9:00 a.m. and 8:00 p.m. daily. No public announcement systems, whistle, portable loudspeaker nor neon lights will be used. Plans showing the site layout, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.3 The Site is the subject of two planning applications for proposed temporary shop and services use, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 23.9.2022 and 5.7.2024 (details at paragraph 5 below). Compared with the last application No. A/TM-SKW/124, the current application covering the same Site is submitted by the same applicant for the same use with a slightly revised layout in the deposition of canopy tents and a new katool lift.

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

- (a) Application Form received on 28.8.2025 (Appendix I)
- (b) Further Information (FI) received on 23.12.2025 (Appendix Ia)

*[accepted and exempted from publication and
recounting requirements]*

1.5 On 24.10.2025, the Committee of the Board agreed to defer making a decision on the application for a period of two months 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 at **Appendix I**. They can be summarised as follows:

- (a) the applied use would serve the nearby residents. It is temporary in nature and would not jeopardise the long-term planning intention of the “V” zone;
- (b) the applied use is not incompatible with surrounding environment;
- (c) no adverse traffic, landscape and visual impacts will be caused; and
- (d) the approval condition regarding the submission of FSIs proposal of the previous permission has been complied with. Yet, the non-compliance of the approval condition regarding the submission of condition record of the drainage facilities was mainly due to time constraints in re-taking photos of the as-built drainage facilities in response to departmental comments.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

The Site is the subject of two previous applications (Nos. A/TM-SKW/115 and 124) for the same use for a period of three years which were approved with conditions by the Committee on 23.9.2022 and 5.7.2024 respectively, on the considerations that temporary approval for a period of three years would not frustrate the long-term planning intention of the “V” zone; the proposed use was generally not incompatible with the surrounding uses; and there was no adverse comment from concerned government departments. However, the last planning permission was subsequently revoked on 5.4.2025 due to non-compliance with time-limited approval condition regarding the submission of a condition record of existing drainage facilities. Details of the application are at **Appendix II** and the boundary is shown on **Plan A-2**.

6. Similar Applications

There are two similar applications for temporary shop and services within the subject “V” zone (No. A/TM-SKW/129 and 131) in the past five years. Both of them were approved with conditions by the Committee in 2025 mainly on similar considerations as mentioned in paragraph 5 above. Details of these applications are summarised in **Appendix II** and their locations are shown on **Plan A-2**.

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

7.1 The Site is:

- (a) bisected into two portions by and accessible from Tai Lam Chung Road ;
- (b) hard paved and currently used for the applied use without valid planning permission; and
- (c) partly within the works area of Route 11 project for widening of Tai Lam Chung Road.

7.2 The surrounding areas are rural residential in character predominantly occupied by village houses intermixed with eating place, storage yards and parking of vehicles.

8. 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 this zone is primarily intended for development of Small House 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Bureau/Government Departments

9.1 Apart from the government department as set out in paragraph in 9.2 below, other bureau/departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices III** and **IV** respectively.

9.2 The following government department objects to the application.

Land Administration

9.2.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) the Site comprises Old Schedule Agricultural Lot, namely Lot 240 S.B in D.D. 385 (the 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 following irregularities not covered by the current application have been observed:
 - two porches were found extending from Structure A and Structure D respectively; and
 - two canopies, with different shape and/or larger size than the proposed Canopy Tent A and Canopy Tent B as shown on the site layout plan (**Drawing A-1**), were found erected next to Structure A and Structure B;
- (c) the Lot owner should immediately rectify/regularise the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (d) the Lot owner/applicant shall either (i) remove the unauthorised structures not covered by the current application immediately; or (ii) include the unauthorised structures in the current application for further consideration by relevant departments and subject to the approval of the Board to the current application which shall have reflected the rectification or amendment as aforesaid required, apply to his office for Short Term Waiver (STW) to permit the structures erected within the Lot. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate to be imposed by his office. In addition, his department reserves the right to take enforcement action against the Lot owner/applicant for any breach of the lease conditions, including the breach(es) already in existence or

to be detected at any point of time in future and land control action for any unlawful occupation of Government Land (GL);

- (e) unless and until the authorised structures are duly rectified by the Lot owner/application or entirely included in the current application, he objects to the application;
- (f) the Site is accessible via a local access on GL leading from Tai Lam Chung Road. His office does not carry out maintenance works for the said GL nor guarantee that any right-of-way to the Site will be given. The applicant shall be responsible for his own access arrangement;
- (g) there is no Small House application approved or under processing at the Lot; and
- (h) his detailed advisory comments are at **Appendix IV**.

10. Public Comment Received During Statutory Publication Periods

On 5.9.2025, the application was published for public inspection. During the statutory public inspection period, one comment (**Appendix V**) was received from an individual providing views that the applicant should provide information on the proposed FSIs especially the Site is in close proximity to residences.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of three years at the Site zoned “V” on the OZP. According to the applicant, the applied use is mainly to serve the local residents and no food and beverage service will be provided. Although the applied use is not entirely in line with the planning intention of the “V” zone, it could meet any such demand in the area. According to the DLO/TM, LandsD, there is currently no Small House application approved/under processing at the Site. Approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The applied use is generally not incompatible with the surrounding areas, which are rural residential in character predominantly occupied by village houses intermixed with eating place, storage yards and parking of vehicles (**Plan A-2**).
- 11.3 The Site is the subject of two previous applications (No. A/TM-SKW/115 and 124) for the same use approved in 2022 and 2024 respectively. The last planning permission was subsequently revoked due to non-compliance with approval condition related to the submission of the condition record of existing drainage facilities. Nevertheless, the applicant has justified that the non-compliance of the approval condition was mainly due to time constraints in re-taking photos of the as-built drainage facilities in response to comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN,DSD). He also clarified that the approval condition regarding the submission of FSIs proposal under the previous permission has been complied with. For the current application, the applicant has submitted the condition record of the implemented drainage facilities and FSIs

proposal, which CE/MN,DSD and Director of Fire Services consider acceptable respectively and have no objection to the application. In this regard, sympathetic consideration may be given to the current application. The applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission, sympathetic consideration would not be given to any further applications.

- 11.4 Other concerned government departments consulted, including the Commissioner for Transport and Director of Environmental Protection, have no objection to/no adverse comment on the application. Relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise potential environmental nuisances on the surrounding areas.
- 11.5 Regarding DLO/TM, LandsD’s concern on the unauthorised structures at the Site, the applicant will be advised to liaise with LandsD on the land administration matter should the Committee approve the application.
- 11.6 There are two approved similar applications for temporary shop and services use within the subject “V” zone in the past five years. Approval of the current application is in line with the Committee’s previous decisions.
- 11.7 Regarding the public comment received as summarised in paragraph 10 above, the planning considerations and assessments in paragraphs 11.1 to 11.6 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, 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 three years until 24.10.2028. 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 6.11.2026;
- (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 IV**.

- 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 "Village Type Development" zone which is primarily for development of Small House 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.

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 28.8.2025
Appendix Ia	FI submitted on 23.12.2025
Appendix II	Previous and Similar Applications
Appendix III	Government Bureau/Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Site Layout Plan
Drawing A-2	Drainage Proposal
Drawing A-3	Fire Service Installations Proposal
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan with Previous Applications
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2026**