

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/115

<u>Applicant</u>	:	Able Smart Properties Limited represented by Allgain Land Administrators (Hong Kong) 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/13
<u>Zoning</u>	:	“Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	:	Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than 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 paved and currently occupied by some temporary structures used for storage and vehicle repairing (**Plans A-2 and A-4**).
- 1.2 The Site is bisected into two 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 proposed use is for convenience store, Chinese medicine clinic, selling of daily necessity and frozen food and providing pet beauty services and bicycle rental services mainly to serve the local residents. Only two loading/unloading spaces are proposed and no parking space will be provided at the Site. No food and beverage services will be provided within the Site and mobile toilets for the staffs (excepted not more than 10) will also be provided. Plans showing the site layout and proposed drainage facilities submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The major development parameters of the proposed use are summarised as follows:

Site area	About 843m ²
Total Floor Area (Non-domestic)	About 562m ²
No. of Structures and Height	7 all for shop and services (Not exceeding 7m, 2 storeys)
Loading/Unloading Spaces	2 1 for van-type goods vehicle (5m x 2.5m) 1 for light goods vehicle (7m x 3.5m)
Operation hours	9 a.m. to 8 p.m. Monday to Sunday (including public holidays)

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

- (a) Application Form with layout plan and development proposal received on 10.6.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 13.7.2022 **(Appendix Ia)**
 - (c) FI received on 2.8.2022 **(Appendix Ib)**
 - (d) FI received on 22.8.2022 **(Appendix Ic)**
 - (e) FI received on 25.8.2022 **(Appendix Id)**
- [(b) to (e) exempted from publication and recounting requirements.]*

- 1.5 On 29.7.2022, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer making a decision on the application for two months as requested by the applicant. FI have been received and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the **Appendices**. They can be summarised as follows:

- (a) The proposed shop and services could serve the need of the local villagers and nearby residents.
- (b) The proposed development is temporary in nature and would not jeopardise the long-term provision of NTEHs in the area.
- (c) There will be no night time activity at the Site. It would not create nuisance and adverse environmental impact to the surrounding areas. The applicant will follow the Environmental Protection Department (EPD)'s "Code of Practice on

Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the environmental impact from the proposed development.

- (d) Sufficient loading/unloading spaces are proposed and no parking space would be provided at the Site. Existing trees at the Site would be retained. The proposed development would not create adverse traffic and landscape impact.
- (e) Drainage facilities would be provided according to the guidelines of Drainage Services Department (DSD). There would be no adverse drainage impact.

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 Application

There is no previous application concerning the Site.

6. Similar Applications

Although there is no similar application within the subject “V” zone, there are five similar applications (No. A/TM-SKW/79, 84, 98, 107 and 108) within the “V” zone of So Kwun Wat Tsuen on the same OZP which were all approved with conditions by the Committee of the Board each for a period of three years between 2012 and 2020 mainly on the grounds that approval of the temporary developments would not jeopardise the long-term planning intention of the “V” zone; no land use incompatibility problem was expected; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, planning permissions for applications No. A/TM-SKW/79, A/TM-SKW/84 and A/TM-SKW/107 were subsequently revoked due to non-compliance with planning conditions. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) bisected into two portions by and accessible from Tai Lam Chung Road (**Plans A-2 and A-3**); and
- (b) hard paved and currently used for storage and vehicle repairing (**Plans A-2 and A-4**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) rural residential in character comprising predominantly village houses and residential structures intermixed with vehicle repair workshops, parking of vehicles, storage yards, an eating place, agricultural land and vacant land;
- (b) to the east is a public toilet (about 80m away from the Site) which the visitors could use as advised by the applicant; and
- (c) to the further west is the Tai Lam Chung Nullah.

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 Government Departments

All government 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.

10. Public Comments Received During Statutory Publication Periods

On 17.6.2022, the application was published for public inspection. During the statutory public inspection period, six public comments were received from individuals. Three public comments (**Appendices V-1 to V-3**) support the application as there are limited shops in the surrounding areas and the proposed use can meet the shopping needs from local residents, nearby workers and visitors. Two public comments (**Appendices V-4 and V-5**) object to the application mainly on the ground that the proposed use would create nuisance, fire safety as well as adverse environmental and traffic impacts to the area. One public comment (**Appendix V-6**) questions the kind of shop and services and any sanitary facilities for the staffs of the proposed shops.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “V” on the OZP. Although the proposed use is not entirely in line with the planning intention of the “V” zone, which is primarily for development of Small House by indigenous villagers, the proposal could meet any such demand for shop and services in the area. According to the District Lands Officer, Lands Department, there is currently no Small House application

approved/under processing at the Site. As such, 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 proposed use is generally not incompatible with the surrounding uses, which comprise predominantly village houses and residential structures intermixed with vehicle parking areas, storage yards, vehicle repair workshops and agricultural land (**Plan A-2**).
- 11.3 There is no adverse comment from concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North of DSD. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments.
- 11.4 There is no previous application at the Site. Five similar applications for temporary shop and services uses within another “V” zone on the same OZP have been approved (**Plan A-1**). As such, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 There are six public comments supporting/objection/raising concerns on the application received during the statutory publication period as summarized in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. Regarding the concerns on the kind of shop and services and sanitary facilities the staffs, details of the proposal in paragraph 1.2 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 comments 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 3 years until 23.9.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing trees on the Site shall be maintained at all times 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 implementation of the accepted drainage proposal as proposed by the applicant 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 23.6.2023;

- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a fire services 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 23.3.2023;
- (f) in relation to (e) above, the implementation of fire services 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 23.6.2023;
- (g) if any of the above planning conditions (a), (b) or (d) 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
- (h) if any of the above planning conditions (c), (e) or (f) 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 proposed use is not in line with the planning intention of the "V" zone which is primarily 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

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 10.6.2022
Appendix Ia	FI received on 13.7.2022
Appendix Ib	FI received on 2.8.2022
Appendix Ic	FI received on 22.8.2022
Appendix Id	FI received on 25.8.2022
Appendix II	Similar Applications within another “V” Zone on the OZP
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-6	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**