

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

APPLICATION NO. A/TM-SKW/119

<u>Applicant</u>	:	Mr. CHAN Yun Ping Danny
<u>Application Site</u>	:	Lot 638 RP in D.D. 375, So Kwun Wat, Tuen Mun, New Territories
<u>Site Area</u>	:	About 59.5m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/14
<u>Zoning</u>	:	“Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<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) for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes for the “V” zone on the OZP, ‘Shop and Services’ use not on the ground floor of a New Territories Exempted House (NTEH) requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission under application No. A/TM-SKW/108 until 1.9.2023.
- 1.2 The Site involves three previous applications including two applications for the same use approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2017 and 2020 respectively (detailed at paragraph 6 below). Compared with the last approved application No. A/TM-SKW/108, the current application is submitted by the same applicant for the same use with the same development parameters and site layout. The major development parameters are summarised as follows:

Major Development Parameters	Current Application No. A/TM-SKW/119
Applied Use:	Temporary Shop and Services (Real Estate Agency) for a Period of Three Years
Site Area:	About 59.5m ²
Total Floor Area:	About 7.5m ²
No. and Height of Structure:	1 (converted container at a height of 2.45m, 1 storey)
No. of Parking Space:	Nil

1.3 The Site is accessible from So Kwun Wat Tsuen Road (**Plan A-2**). According to the applicant, the operation hours of the applied use will be from 10:00am to 7:00pm daily. A vehicular access plan and a floor plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application Form received on 21.3.2023 **(Appendix I)**
- (b) Further Information (FI) received on 29.3.2023* **(Appendix Ia)**
- (c) FI received on 24.4.2023* **(Appendix Ib)**

*[*Exempted from publication and recounting requirements]*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to 1b**, which are summarised as follows:

- (a) The real estate agency will continue to serve the residents in So Kwun Wat.
- (b) There is no change in the applied use, development parameters and site layout. There is also no change to the implemented fire service installations which are the same as the previous proposal approved by relevant government department.
- (c) For trip generation, the employee will not drive to work and there will only be maximum 2-3 trips per week generated by customers which will not cause unacceptable traffic impact. The extent of trip generation will remain unchanged under the current application.

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. **Town Planning Board Guidelines**

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension

of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. **Background**

The Site is currently not subject to any planning enforcement action.

6. **Previous Applications**

6.1 The Site involves three previous applications for various temporary uses (**Plan A-1**). Except for application No. A/TM-SKW/7 (for proposed temporary open storage of containers at a much larger site) which is not relevant to the current application, the remaining two applications (No. A/TM-SKW/98 and 108) were for the same use with the same site as the current application. Details of the applications are summarised in **Appendix III**.

6.2 Applications No. A/TM-SKW/98 and 108 were approved by the Committee for a period of three years on 11.8.2017 and 1.9.2020 respectively mainly on the considerations that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “V” zone; the applied use was not incompatible with the surrounding land uses; and no significant adverse traffic, sewerage, drainage, landscape and environmental impacts were anticipated. All the time-limited approval conditions under application No. A/TM-SKW/98 had been complied with, while no time-limited approval condition was imposed on the last planning permission which is valid until 1.9.2023.

7. **Similar Applications**

Within the same “V” zone, there are three similar applications (No. A/TM-SKW/79, 84 and 107) for temporary shop and services uses including construction consultancy services and interior design and renovation services (**Plan A-1**). All of them were approved with conditions by the Committee between 2012 and 2020 on similar considerations as mentioned in paragraph 6.2 above. Details of these applications are summarized at **Appendix III**.

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

8.1 The Site is:

- (a) mainly hard-paved and used for the applied use with valid planning permission (**Plans A-3 and A-4**); and
- (b) accessible via So Kwun Wat Tsuen Road (**Plan A-2**).

8.2 The surrounding areas have the following characteristics (**Plans A-1 to A-3**):

- (a) to its north are residential dwellings and parking of vehicles; to its further north is a vegetated hill slope zoned “Green Belt”;

- (b) to its west is a village house with a restaurant on the ground floor, to its further west are residential dwellings and a vehicle repair workshop;
- (c) to its east and south across So Kwun Wat Tsuen Road are residential dwellings, parking of vehicles and open storage; and
- (d) the open storage, vehicle repair workshops and parking of vehicles in the vicinity are suspected unauthorized developments subject to planning enforcement action.

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 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 New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

All relevant government 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 are provided in **Appendices IV and V** respectively.

11. Public Comment Received During Statutory Publication Period

On 28.3.2023, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning approval for temporary shop and services (real estate agency) for a period of three years at the Site zoned “V” on the OZP (**Plan A-1**), which is primarily intended for development of Small Houses by indigenous villagers. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, according to the District Lands Officer/Tuen Mun, Lands Department, there is no Small House application approved or under processing at the Site. The applied use would also serve the local villagers for real estate agency services. Approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone.

12.2 The Site is located within an area predominately occupied by village houses, parking of vehicles and storage yards (**Plan A-2**). The applied use is considered not incompatible with the surrounding land uses.

- 12.3 The application is generally in line with the TPB PG-No. 34D in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/TM-SKW/108; adverse implications arising from the renewal of the planning approval are not expected; all time-limited approval conditions under the previous approvals have been complied with; concerned government departments have no objection to or no adverse comments on the application; and the three-year approval period sought is of the same time-frame as the previous approval.
- 12.4 Relevant Government departments including the Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Fire Services have no objection to or no adverse comment on the application. Significant adverse environmental, traffic, drainage and fire safety impacts on the surrounding areas are not envisaged. To address the technical requirements of the concerned departments, relevant approval conditions are recommended in paragraph 13.2 below.
- 12.5 Two previous applications for the same applied use at the Site (**Plan A-1**) were approved in 2017 and 2020 on the grounds that the proposed/applied uses were not incompatible with the surrounding land uses and no major adverse comments from concerned government departments. In addition, there are three similar approvals for temporary shop and services use within the subject “V” zone on the OZP (**Plan A-1**) between 2012 and 2020. Approval of the current application is generally in line with the Committee’s planning decisions.
- 12.6 During the statutory public inspection period, no public comment on the application was received.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department has no objection to the temporary shop and services (real estate agency) for a further period of three 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 period of three years, and be renewed from 2.9.2023 until 1.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no structure within 7m from the western boundary of the Site, as proposed by the applicant, is allowed at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at

any time during the planning approval period;

- (d) the existing fire service installations implemented on the Site should be maintained in an efficient working order at all times during the planning approval period; and
- (e) if any of the above planning conditions (a), (b), (c) 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.

[Approval conditions (a) to (d) are the same as those under the previous application No. A/TM-SKW/108 while approval condition on drainage facilities is deleted to accord with the latest departmental comments.]

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 use is not in line with the planning intention of the "V" zone which is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion. 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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 21.3.2023
Appendix Ia	FI received on 29.3.2023
Appendix Ib	FI received on 24.4.2023
Appendix II	Relevant Extract of TPB PG-No. 34D
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Floor Plan
Plan A-1	Location Plan with Similar and Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2023**