

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/124

<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/15
<u>Zoning</u>	:	“Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</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 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 applied use comprises five two-storey container structures (7m-high) mainly for selling daily necessities and car parts, and for providing real estate agency and photographic studio services, as well as two canopies (5m-high) for shelter. The total floor area is 562m². No food and beverage services will be provided. One new tree is proposed at the western portion of the Site while three existing trees within/immediately outside the Site will be retained/unaffected. Plans showing the site layout and as-built drainage facilities submitted by the applicant are at **Drawings A-1 and A-2** respectively.

- 1.3 The Site is the subject of a planning application (No. A/TM-SKW/115) for proposed temporary shop and services use approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 23.9.2022 (details at paragraph 5 below). Compared with the last application, the current application is submitted by the same applicant for the same use with a slightly different layout. A comparison of the major development parameters between the last application and the current application is summarised as follows:

Major Development Parameters	Approved Application (A/TM-SKW/115) (a)	Current Application (A/TM-SKW/124) (b)	Difference (b) – (a)
Site area	About 843m ²	About 843m ²	<i>No change</i>
Total Floor Area (Non-domestic)	About 562m ²	About 562m ²	<i>No change</i>
No. of Structures (Height)	7 for shop and services (Not exceeding 7m, 2 storeys)	7 including: • 5 for shop and services (Not exceeding 7m, 2 storeys) • 2 for canopies (Not exceeding 5m, 1 storey)	-2 structures for shop and services +2 structures for canopy
No. of Loading/ Unloading Spaces	2 • 1 for van-type goods vehicle (5m x 2.5m) • 1 for light goods vehicle (7m x 3.5m)	2 • 1 for van-type goods vehicle (5m x 2.5m) • 1 for light goods vehicle (7m x 3.5m)	<i>No change</i>
Operation hours	9 a.m. to 8 p.m. Monday to Sunday (including public holidays)	9 a.m. to 8 p.m. Monday to Sunday (including public holidays)	<i>No change</i>

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

- (a) Application Form received on 15.1.2024 **(Appendix I)**
- (b) Further Information (FI) received on 20.2.2024[#] **(Appendix Ia)**
- (c) FI received on 4.3.2024[#] **(Appendix Ib)**
- (d) FI received on 10.5.2024[#] **(Appendix Ic)**

accepted and exempted from publication and recounting requirements

- 1.5 On 15.3.2024, the Committee of the Board agreed to defer making a decision on the application for 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; and
- (c) no adverse traffic and landscape impact will be caused.

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

The Site is the subject of a previous application (No. A/TM-SKW/115) for the same use for a period of three years which was approved with conditions by the Committee on 23.9.2022 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 planning permission was subsequently revoked on 23.3.2024 due to non-compliance with time-limited approval condition regarding the submission and implementation of fire service installations (FSIs) proposal, as well as the implementation of the accepted drainage proposal. Details of the application are at **Appendix II** and the boundary is shown on **Plan A-2**.

6. Similar Applications

Although there is no similar application for temporary shop and services within the subject “V” zone, there are three similar applications (No. A/TM-SKW/107, 108 and 119) in the past five years within the “V” zone on the same OZP. All of them were approved with conditions by the Committee between 2020 and 2023 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-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**);
- (b) hard paved and currently used for the applied use without valid planning permission (**Plans A-2 and A-4**); and
- (c) partly within the works area of Route 11 project for widening of Tai Lam Chung Road (**Plan A-2**).

7.2 The surrounding areas are rural residential in character predominantly occupied by village houses, eating place, retail shops, vehicle repair workshops, parking of vehicles, storage yards, fallow agricultural and unused lands. Some of these uses are suspected unauthorized developments subject to planning enforcement action.

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 23.1.2024, the application was published for public inspection. During the statutory public inspection period, two comments (**Appendices V-1 and V-2**) were received from individuals objecting to the application mainly on the grounds that the on-site structures are suspected to be used for domestic use; vehicles are parked along Tai Lam Chung Road outside the Site at night obstructing pedestrian circulation; and the applied use involves selling of food and beverages which may induce health, safety and hygiene concerns.

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 District Lands Officer/Tuen Mun, Lands Department (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 uses, which is rural residential in character predominantly occupied by village houses, eating place, retail shops, vehicle repair workshops, parking of vehicles, storage yards, fallow agricultural and unused lands (**Plan A-2**).
- 11.3 The Site is the subject of a previous application (No. A/TM-SKW/115) for the same use approved in 2022. The planning permission was subsequently revoked due to non-compliance with approval conditions related to the submission and implementation of FSIs proposal, as well as the implementation of drainage proposal. For the current application, the applicant has submitted a FSIs proposal and implemented the drainage proposal and the Director of Fire Services (D of FS) and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) have no objection to/ no adverse comment on the application respectively. In this regard, sympathetic consideration may be given to the application. The applicant will be advised that should it 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, including the Commissioner for Transport and Director of Environmental Protection, have no objection to / no adverse comment on the application from traffic and environmental respectively. 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 There is a previous application approved at the Site in 2022 and three similar applications for temporary shop and services uses within another “V” zone on the same OZP approved in the past five years. Approval of the current application is in line with the Committee’s previous decisions.
- 11.6 There are two public comments received objecting to the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant. As for the suspected domestic use, according to the applicant, he has demanded his tenant to rectify the domestic use at the Site (**Appendix Ic**). DLO/TM, LandsD advises that his office reserves the right to take lease enforcement action against breaches as considered appropriate.

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 three years until 5.7.2027. 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 submission of a condition record of the existing drainage facilities on the site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or the Town Planning Board by 5.10.2024;
- (c) the submission of a revised fire service installations 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 5.1.2025;
- (d) in relation to (c) above, the implementation of the 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 5.4.2025;
- (e) 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
- (f) if any of the above planning condition (b), (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.

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 "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 15.1.2024
Appendix Ia	FI received on 20.2.2024
Appendix Ib	FI received on 4.3.2024
Appendix Ic	FI received on 10.5.2024
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-2	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2024**