

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/129

<u>Applicant</u>	:	WU Kwong Wai (胡光偉) represented by Allgain Land Planning Limited
<u>Site</u>	:	Lots 247 (Part) and 248 (Part) in D.D. 385, So Kwun Wat, Tuen Mun, New Territories
<u>Site Area</u>	:	About 800m ²
<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”) [Restricted to a maximum building height of 3 storeys (8.23m), except for those developments / uses specified in the Notes]
<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 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 currently paved and vacant (**Plan A-2**).
- 1.2 The Site is accessible via a local track from Tai Lam Chung Road (**Plan A-2**). According to the applicant, the Site will be sub-divided into four portions each with individual ingress/egress point which will be used for selling daily necessities, groceries, hardware and construction materials, and for providing real estate agency services. Four two-storey temporary structures of 7m in height with a total floor area of about 320m² will be erected at the Site and two loading/unloading spaces for van-type light goods vehicle will be provided. The operation hours are between 9:00 a.m. and 7:00 p.m. daily. No neon signboard will be installed and no portable speaker or any form of audio amplification system will be used. The vehicular access plan and site layout plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form and Planning Statement received on 29.8.2024 (**Appendix I**)

(b) Further Information (FI) received on 24.12.2024*

(Appendix Ia)

**accepted and exempted from publication and recounting requirements*

- 1.4 On 25.10.2024, the Rural and New Town Planning Committee (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 and Planning Statement at **Appendix I**. They can be summarised as follows:

- (a) the proposed 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 proposed use is not incompatible with the surrounding land uses; and
- (c) no adverse traffic, visual, and landscape impacts will be caused.

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

The applicant is not a ‘current land owner’ but has complied with the requirements 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 notices and sending notice to the Tuen Mun Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Applications

The Site was involved in three previous applications (No. A/TM-SKW/3, 6 and 24) for comprehensive residential development and village housing, and temporary car/lorry park which considerations are not relevant to the current application. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

There are two similar applications (No. A/TM-SKW/115 and 124) involving one site for temporary shop and services for a period of three years within the same “V” zone in the past five years. Both applications were approved with conditions by the Committee mainly on the considerations that the temporary approval would not frustrate the long-term

planning intention of the “V” zone; being not incompatible with the surrounding land uses; and relevant government departments had no adverse comment on/no objection to the application. Details of the 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-3)

7.1 The Site is:

- (a) currently paved and vacant; and
- (b) accessible via a local track from Tai Lam Chung Road.

7.2 The surrounding areas are rural in character predominated by village houses intermixed with parking of vehicles, vehicle repair workshops, open storage/storage yards, a retail shop, a barbeque area and some vacant land. 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 Bureau/Departments

9.1 Apart from the government department as set out in paragraph in 9.2 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 are provided in **Appendices III and IV** respectively.

9.2 The following government department has objection to the application.

Land Administration

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

- (a) objects to the application;
- (b) the Site comprises Old Schedule Agricultural Lot, i.e. Lots 247 (Portion) and 248 (Portion) both in D.D. 385 (“the Lots”), 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) there is unauthorised structure including a meter box on the Site. The lot owner(s) should immediately rectify/regularize the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (d) should planning approval be given to the application, the lot owner(s) will need to apply to his office for a Short Term Waiver (STW) to permit the structures to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate to be imposed by his office. In addition, his office reserves the right to take enforcement action against the Lots owner(s)/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;
- (e) the Site is accessible via a local access on various private lots and Government land leading from Tai Lam Chung Road. His office does not carry out maintenance works for the said access nor guarantee that any right-of-way to the Site will be given. The applicant shall be responsible for his own access arrangement;
- (f) there is no Small House application approved or under processing on the Site; and
- (g) his detailed advisory comments are at **Appendix IV**.

10. Public Comment Received During Statutory Publication Period

On 6.9.2024, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services for a period of three 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, it could serve the local residents. According to 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 proposed use is generally not incompatible with the surrounding areas which are rural in character predominated by village houses intermixed with parking of vehicles, vehicle repair workshops, open storage/storage yards, a retail shop, a barbeque area and some vacant land.

- 11.3 Concerned government departments consulted, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to / no adverse comment on the application from traffic, environmental, drainage and fire safety aspects respectively. Relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. Should the 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. Regarding DLO/TM, LandsD’s concern on the unauthorized structure(s) within the Site, the applicant will be advised to liaise with LandsD on the land administration matter should the Committee approve the application.
- 11.4 There are two similar applications within the same “V” zone approved by the Committee in the past five years as mentioned in paragraph 6 above. Approval of the application is generally in line with the previous decisions of the Committee.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 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 14.2.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a revised drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.8.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal 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 14.11.2025;
- (c) in related to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 14.8.2025;
- (e) in relation to (d) above, the implementation of the 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 14.11.2025;
- (f) if the above planning condition (c) 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

- (g) if any of the above planning condition (a), (b), (d) or (e) 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 attached 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 "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 and Planning Statement received on 29.8.2024
Appendix Ia	FI received on 24.12.2024
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout 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
February 2025