

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1046

<u>Applicant</u>	:	TANG Wing Yat Tommy
<u>Site</u>	:	Lots 594 RP and 595 RP in D.D. 109, Kam Tin North, Yuen Long, New Territories
<u>Site Area</u>	:	About 2,560m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/11
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Proposed Temporary Shop and Services and Public Vehicle Park (Excluding Container Vehicle) with Ancillary Facilities for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services and public vehicle park (excluding container vehicle) with ancillary facilities for a period of five years at the application site (the Site), which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ and ‘Public Vehicle Park (excluding container vehicle)’ are Column 2 uses in the “V” zone, which require planning permission from the Town Planning Board (the Board). The Site is currently paved, largely vacant and erected with a few temporary structures (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Chi Ho Road via a short section of local track (**Plans A-2 to A-3**). According to the applicant, the proposed use involves seven structures of one to two storeys with heights of not more than 6m and a total floor area of about 274.2m² for convenience store, ancillary offices, rain shelter, storage and toilet uses. Eight open-air displaying spaces for private cars; 10 parking spaces for private car; six parking spaces for light goods vehicle (LGV) and three loading/unloading spaces for LGV will be provided within the Site. The operation hours for shop and services use will be 8 a.m. to 10 p.m. daily whilst the public vehicle park will be operated 24 hours daily, both including public holidays. No public announcement systems, whistle blowing or portable loudspeaker will be used at the Site. The site layout plan submitted by the applicant is at **Drawing A-1**.

1.3 The Site is the subject of two previously approved applications (No. A/YL-KTN/619 for temporary public vehicle park; and No. A/YL-KTN/717 for temporary eating place and public car park) submitted by a different applicant with the same site area but different layouts and development parameters from the current application. For the last application No. A/YL-KTN/717, the planning permission was revoked in March 2023 due to non-compliance with approval conditions. Details of the previous applications are given in paragraph 5 below.

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

- (a) Application Form with attachments received on 26.8.2024 **(Appendix I)**
 - (b) Further Information (FI) received on 5.9.2024[#] **(Appendix Ia)**
 - (c) FI received on 14.10.2024* **(Appendix Ib)**
- [#]*accepted but not exempted from publication and recounting requirements*
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2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib**, and can be summarised as follows:

- (a) The proposed uses are intended to serve the villagers in the area and to meet the demand for car parking spaces in the area, particularly from Shui Tau Tsuen and Shui Mei Tsuen where provision of car park is not sufficient. The temporary nature of the proposed uses would not jeopardise the long-term planning intention of the “V” zone, and the proposed uses are not incompatible with the surrounding environment.
- (b) The applicant has submitted fire service installations (FSIs) and drainage proposals in support of the application. It is anticipated that the proposed uses would generate infrequent trips. There will not be adverse fire safety, environmental, traffic and drainage impacts on the surrounding areas.
- (c) The proposed structures will not be used for domestic purpose. The applicant will remove the existing structures at the Site and follow up with Short Term Waiver (STW) application for the proposed uses with the Lands Department (LandsD) accordingly after obtaining planning approval.

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

The applicant is not the 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 notice and sending registered mail to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

Part of The Site is subject to planning enforcement action (No. E/YL-KTN/685) against unauthorised development (UD) involving storage use and use for place for parking of vehicles (**Plan A-2**). Enforcement Notice was issued on 16.5.2024 requiring discontinuation of the UD by 16.7.2024. Recent site inspection revealed that UD was discontinued in general, but some miscellaneous items were observed. The Site is currently under monitoring.

5. **Previous Applications**

5.1. The Site is the subject of two previous applications, including No. A/YL-KTN/619 for temporary public vehicle park (excluding container vehicle) for five years, and No. A/YL-KTN/717 for temporary eating place and public car park (excluding container vehicle) for three years. Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in August 2018 and December 2020 respectively mainly on the considerations that the temporary approval would not jeopardise the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment or the concerns could be addressed by approval conditions. The planning permissions under applications No. A/YL-KTN/619 and 717 were subsequently revoked in February 2021 and March 2023 respectively due to non-compliance with the approval conditions related to submission/implementation of drainage proposal and implementation of FSIs proposal.

5.2. Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. **Similar Applications**

6.1 There are seven similar applications (No. A/YL-KTN/737, 768, 803, 816, 883, 935 and 1038) for temporary shop and services and/or public vehicle park within or straddling the same “V” zone (and partly within the “Agriculture” (“AGR”) zone) in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between December 2020 and August 2023 on the similar considerations as mentioned in paragraph 5.1. The planning permissions under applications No. A/YL-KTN/737 and 768 were subsequently revoked in May 2021 and 2024 respectively due to non-compliance with approval conditions.

6.2 Details of the similar 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) currently paved, largely vacant and erected with a few temporary structures; and
- (b) accessible from Chi Ho Road to the south via a short section of local track.

7.2 The surrounding areas are rural in character with an intermix of vacant land, grassland, hobby farm, holiday camp and barbeque site (with valid planning permission under application No. A/YL-KTN/826), residential structures and open storage yard.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses 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 (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 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 adverse comment on the application:

Land Administration

Comments of the District Lands Officer/Yuen Long (DLO/YL), LandsD:

- (a) he has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lot Nos. 594 RP and 595 RP both in D.D. 109 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) Lot No. 595 RP in D.D. 109 is covered by STW No. 5183 for the purpose of Ancillary use to Temporary Public Car Park (Excluding Container Vehicle);
- (d) recent site inspection found that the existing structures within the private lots were being used for domestic purposes. The lots owner(s) have to cease the domestic use and rectify the lease breach as soon as possible; and
- (e) there is no Small House application approved or under processing within the Site.

9.3 The following government department supports the application:

Traffic

Comments of the Commissioner for Transport (C for T):

- (a) supports the application from traffic engineering perspective to address the local demand for parking spaces; and
- (b) detailed advisory comments are at **Appendix IV**.

10. Public Comments Received During Statutory Publication Period

On 3.9.2024 and 17.9.2024, the application and FI were published for public inspection. During the statutory public inspection periods, two public comments were received from individuals with one objecting to the application mainly on the grounds that the approval conditions from previous applications were not fulfilled; and there are insufficient justifications on the revocation record, and another one raising concern on suspected UD at the Site (**Appendix V**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services and public vehicle park (excluding container vehicle) with ancillary facilities for a period of five years at the Site zoned “V” (**Plan A-1**). The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects, and land within this zone is primarily intended for development of Small Houses by indigenous villagers. Whilst the proposed uses are not entirely in line with the planning intention of the “V” zone, they are intended to serve the villagers nearby and C for T supports the application as it could help address the local parking demand. Besides, DLO/YL, LandsD advises that there is no Small House application approved or under processing at the Site. The proposed uses of temporary nature would not adversely affect the land availability for NTEH/Small House development within the “V” zone in the long term. It is considered that approval of the application on a temporary basis for five years would not frustrate the long-term planning intention of the “V” zone.

- 11.2 The proposed uses are considered not incompatible with the surrounding areas which are rural in character with an intermix of vacant land, grassland, hobby farm, holiday camp and barbeque site, residential structures and open storage yard. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that no significant landscape impact arising from the proposed uses is anticipated.
- 11.3 Relevant government departments consulted including the Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the proposed uses.
- 11.4 Regarding DLO/YL, LandsD's adverse comment on the application in view of the existing structures with lease breach at the concerned lots, the applicant indicates that the existing structures will be removed and STW application with LandsD will be followed up. An advisory clause on the need for rectifying the lease breach is also recommended should the Committee approve the application.
- 11.5 The Site is the subject of two previously approved applications involving temporary public vehicle park as detailed in paragraph 5.1. While the planning permission under the last application No. A/YL-KTN/717 had been revoked, it was submitted by a different applicant and with a different layout from the current application. Besides, there are seven approved similar applications for temporary shop and services and/or public vehicle park within or straddling the same "V" zone in the vicinity of the Site as mentioned in paragraph 6.1. Approving the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comments as mentioned in paragraph 10, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, PlanD 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 five years until 25.10.2029. 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 25.4.2025;

- (b) in relation to (a) above, the implementation of the revised 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 25.7.2025;
- (c) in relation 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 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 25.4.2025;
- (e) in relation to (d) above, the implementation of the revised 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 25.7.2025;
- (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 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 uses are not in line with the planning intention of the "V" zone which is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects, and land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification 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 with attachments received on 26.8.2024
Appendix Ia	FI received on 5.9.2024
Appendix Ib	FI received on 14.10.2024
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**