

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/878

- Applicant** : TANG Kin Wai represented by Metro Planning & Development Company Limited
- Site** : Lot 283 S.A RP (Part) in D.D. 109, Kam Tin Road, Kam Tin, Yuen Long, New Territories
- Site Area** : About 868 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9 at the time of submission
- Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force
[The zoning and development restrictions for the Site remain unchanged on the current draft OZP No. S/YL-KTN/10]
- Zoning** : “Village Type Development” (“V”)
- Application** : Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services for a period of 5 years. The Site falls within an area zoned “V” on the OZP. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, which require planning permission from the Town Planning Board (the Board). The Site is paved, erected with temporary structures, and used for the applied use with valid planning permission under Application No. A/YL-KTN/753 (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is divided into eastern and western portions by a local track. According to the applicant, the development involves six one-storey temporary structures with building height ranging from about 3.5m to 4.5m and a total floor area of not more than 244m² for shop and services use. A private car parking space and a loading/unloading space for light goods vehicle are provided within the Site. The operation hours will be from 9:00 a.m. to 9:00 p.m. from Mondays to Sundays, including public holidays. The Site is accessible from Kam Tin Road via a local access. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of ten previous applications covering different parts or the whole Site for various shop and services uses (details at paragraph 5 below). When compared with the last approved application (No. A/YL-KTN/753), which was submitted by the same applicant, except with minor changes in the layout and the location of car parking space, the current application is generally the same in terms of the site area / boundary, applied use and major development parameters.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received on 13.12.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 15.3.2023 **(Appendix Ia)**
(accepted and exempted from publication)
 - (c) FI received on 20.4.2023 **(Appendix Ib)**
(accepted and exempted from publication)
 - (d) FI received on 2.5.2023 **(Appendix Ic)**
(accepted and exempted from publication)
- 1.5 On 3.2.2023, the Rural and New Town Planning Committee (the Committee) 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, supplementary information and FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) The proposed development is on a temporary basis which will not jeopardise the long-term planning intention of the “V” zone. The proposed use is not incompatible with the surrounding land uses.
- (b) The development for shop and services is intended to provide goods and services to nearby residents. The applied use is housed within enclosed structures and no operation will be held during sensitive hours. Besides, the applicant undertakes to regularise the temporary structures at the Site.
- (c) As compared with approved previous Application No. A/YL-KTN/753 for the same use, there are minor changes in the layout and the location of car parking space at the Site for its operational needs. The current application is to reflect the latest on-site circumstance.
- (d) Applications for similar shop and services use have been approved by the Committee in proximity of the Site. Approval of the application would not set an undesirable precedent for other similar applications.

- (e) The proposed development would not generate adverse traffic, environmental and drainage impacts to the surrounding areas. If the application is approved, the applicant undertakes to comply with all the approval conditions.

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

The applicant is not the “current land owner” of the Site but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notification letter to the Kam Tin Rural Committee by registered mail. 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

- 5.1 The Site is the subject of ten previous applications (No. A/YL-KTN/365, 403, 409, 417, 430, 438, 547, 611, 644 and 753) covering different parts or the whole Site for various shop and services uses.
- 5.2 All applications were approved by the Committee between 2011 and 2021 for the reasons that the developments were not incompatible with the surrounding land uses and temporary planning permission would not frustrate the long-term planning intention. However, all applications, except Applications No. A/YL-KTN/430 and 753, were revoked between May 2013 and May 2019 due to non-compliance with approval conditions.
- 5.3 Compared with the last Application No. A/YL-KTN/753, the current application submitted by the same applicant is the same in terms of the applied use, site area/ boundary and major development parameters, except minor changes in the layout and location of car parking spaces. The planning permission is valid until 26.3.2026.
- 5.4 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1b**.

6. Similar Applications

- 6.1 There are three similar applications (No. A/YL-KTN/602, 662 and 865) within the same “V” zone in the vicinity of the Site in the past five years.
- 6.2 Applications No. A/YL-KTN/602 and 662 covering the same site for temporary shop and services (motor vehicle showroom) with storage of vehicles/vehicles parts and ancillary offices use were rejected by the Board on review and the Committee in December 2018 and September 2019 respectively mainly on the

grounds that the developments were not in line with the planning intention of the “V” zone; and the scale of the proposed developments were excessive and not compatible with the developments in the surrounding area.

- 6.3 Application No. A/YL-KTN/865 for temporary eating place, shop and services was approved by the Committee in December 2022 on similar grounds as stated in paragraph 5.2 above.
- 6.4 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1a**.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4b)

7.1 The Site is:

- (a) paved, erected with temporary structures, and used for the applied use with valid planning permission under Application No. A/YL-KTN/753; and
- (b) accessible from Kam Tin Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate east is a shrine. To its further north, northeast and east are the village settlement of Kat Hing Wai, residential dwellings/ structures, parking of vehicles and vacant land;
- (b) to its immediate south is a refuse collection point. To its further south across Kam Tin Road are parking of vehicles, residential structures/ dwellings and vacant/ unused land; and
- (c) to its immediate west is the Salvation Army Kam Tin Integrated Service Centre in an area zoned “Government, Institution or Community” (“G/IC”). To its further west and northwest are the village settlement of Kam Tin Shi, open storage/ storage yards and parking of vehicles.

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 ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application the Board.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 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 reservation on/ do not support the application:

Land Administration

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

he has concerns given that there are unauthorised building works and/or uses on the private lot which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

10. Public Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, two public comments from individuals were received. The commenters object to the application mainly on the grounds that the development would cause adverse traffic, fire safety and environmental impact to the surrounding area, including the Salvation Army Kam Tin Integrated Service Centre next to the Site; and the Site was involved in eight previous applications which were revoked due to non-compliance of approval conditions.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of 5 years in the “V” zone. 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. Other commercial, community and recreational uses may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of “V” zone. Nevertheless, District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD) advises that there is no Small House application approved or under processing at the Site. It is considered that approval of the application on a temporary basis of 5 years would not jeopardise the long-term planning intention of the “V” zone.
- 11.2 The development is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, parking of vehicles, open storage/ storage yards and vacant/unused land. Some

shops/commercial uses are located on the ground floor of the village houses in the vicinity.

- 11.3 According to the applicant, the development intends to serve the locals. Taking into account the nature and small scale of the applied use, the application would unlikely cause significant adverse traffic, landscape, environmental and drainage impacts to the surrounding areas. Relevant departments consulted including the Commissioner for Transport, Chief Town Planner/Urban Design and Landscape, Planning Department, Director of Environmental Protection (DEP) and Chief Engineer/Mainland North of Drainage Services Department have no adverse comment on the application. To minimise any possible environmental nuisance, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise the possible environmental nuisance generated by the proposed use. Regarding the existing unauthorised building works and/or uses on part of the Site as advised by the DLO/YL of LandsD, the applicant stated that he will take follow-up actions for regularisation of the temporary structure at the Site. Relevant advisory clause for application to LandsD for regularisation is recommended.
- 11.4 The Site is involved in ten previous applications for various shop and services uses covering different parts or the whole Site which were approved by the Committee between 2011 and 2021 mainly for the reasons as stated in paragraph 5.2 above. The last application No. A/YL-KTN/753 submitted by the same applicant was approved by the Committee in March 2021 and is valid until 26.3.2026. Compared with that of the current application, the current application is the same in terms of the applied use, site area/ boundary and major development parameters, except minor changes to layout of the structures and car parking space. According to the applicant, the current application is to meet the operational need of the applied use and to better reflect the actual on-site circumstance. There are three similar applications for temporary shop and services use in the vicinity of the Site (**Plan A-1a**), one of which was for temporary eating place, shop and services (No. A/YL-KTN/865) which was approved by the Committee in 2022, and the other two were for temporary shop and services (motor vehicle showroom) with storage of vehicles/vehicles parts and ancillary offices which were rejected by the Board on review and the Committee in December 2018 and September 2019 respectively as the scale of the proposed developments were considered excessive and not compatible with the developments in the surrounding area. The planning circumstances of the current application are similar to the approved similar application. Approval of this application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comments received during the statutory publication period objecting to the application as stated in paragraph 10 above, the departmental comments and planning considerations and 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 as mentioned in paragraph 10 above, the Planning Department has no objection to the applied use.
- 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 5 years until 5.5.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site 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 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 5.11.2023;
- (d) in relation to (c) 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 5.2.2024;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the implementation of the accepted 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 5.11.2023;
- (g) if any of the above planning condition (a), (b) or (e) 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 condition (c), (d) and (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 attached at **Appendix VI**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is 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. 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 with supplementary information received on 13.12.2022
Appendix Ia	FI received on 15.3.2023
Appendix Ib	FI received on 20.4.2023
Appendix Ic	FI received on 2.5.2023
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-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
MAY 2023**