

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/1039

<u>Applicant</u>	: Promise Luck Limited represented by Goldrich Planners and Surveyors Ltd.
<u>Site</u>	: Lots 428 (Part) and 431 (Part) in D.D. 106, Yuen Long, New Territories
<u>Site Area</u>	: About 2,287m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zonings</u>	: “Village Type Development” (“V”) <i>[Maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Proposed Temporary Shop and Services (Retail Shop for Hardware Groceries and Construction Materials) with Ancillary Facilities and Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of Five Years and Associated Filling of Pond

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (retail shop for hardware groceries and construction materials) with ancillary facilities and temporary public vehicle park (excluding container vehicle) for a period of five years and associated filling of pond at the application site (the Site), which falls within an area zoned the “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 for “V” zone which require planning permission from the Town Planning Board (the Board). Filling of pond in the “V” zone also requires planning permission from the Board. The Site is currently vacant, partly paved and partly covered with overgrown vegetation, an abandoned pond and some temporary structures (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kam Po Road via a local track (**Plans A-2 and A-3**). According to the applicant, the proposed uses involve three single-storey structures of not more than 5m in height with a total floor area of about 675m² for temporary shop and services, reception, ancillary office and

storage uses and a vehicle parking area with 22 spaces (19 for private cars and three for light goods vehicles) (**Drawing A-1**). Sufficient space will be provided for vehicles to manoeuvre within and entering and leaving the Site. No vehicles exceeding 5.5 tonnes, including container vehicles will be allowed to park at the Site. The operation hours of the proposed shop and services are between 9:00 a.m. and 7:00 p.m. daily while the proposed public vehicle park would operate 24 hours daily, both including public holidays. No public announcement systems, whistle blowing or portable loudspeaker will be allowed in the Site. The applicant also applies filling of pond of about 93m² in area (about 4.1% of the Site) with a depth of about 1m with soil and concrete for erection of structures and site maintenance (**Drawing A-2**). The site layout plan and pond filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application Form with attachments received on 31.10.2024 (**Appendix I**)
- (b) Further Information (FI) received on 17.12.2024* (**Appendix Ia**)

** accepted and 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 the Application Form and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed uses are temporary in nature and would not frustrate the long-term planning intention of the “V” zone and are considered not incompatible with the surrounding land uses which are mainly open storages, parking of vehicles and residential dwellings.
- (b) The proposed uses could meet the demand for parking spaces and hardware groceries and construction materials from the local residents and operators in the vicinity. There are 13 similar applications for shop and services and public vehicle park uses approved between 2020 and 2024 and the planning context and circumstances of these applications have not been significantly altered and hence, they are relevant to the current application.
- (c) Sufficient space will be provided for vehicles to manoeuvre within and entering and leaving the Site in order to ensure no queuing/turning back outside the Site. Also, the trips generated by the proposed uses would be insignificant. The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and other relevant pollution control ordinances. No public announcement systems, whistle blowing or portable loudspeaker will be allowed in the Site. The applicant will submit and implement drainage and fire service installations proposals. Hence, adverse traffic, environmental, drainage and fire safety impacts to the surrounding area arising from the proposed uses are not anticipated.

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 publishing newspaper notice and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection.

4. **Background**

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

5. **Previous Application**

There is no previous application covering the Site.

6. **Similar Applications**

- 6.1 There are two similar applications, including one (No. A/YL-KTS/893) for temporary shop and services and one (No. A/YL-KTS/1017) for public vehicle park with filling of land within/straddling the same “V” zone in the vicinity of the Site in the past five years. Details of these similar applications are summarised in **Appendix II** and their locations are on **Plan A-1**.
- 6.2 Application No. A/YL-KTS/893 for proposed temporary shop and services for a period of five years was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 23.7.2021 mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was considered not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by appropriate approval conditions.
- 6.3 Application No. A/YL-KTS/1017 for proposed temporary public vehicle park (excluding container vehicle) for a period of three years and filling of land was approved with conditions by the Committee on 4.10.2024 mainly on similar considerations as mentioned in paragraph 6.2 above.

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

7.1 The Site is:

- (a) accessible from Kam Po Road via a local track; and

- (b) currently vacant, partly paved and partly covered with overgrown vegetation, an abandoned pond and some temporary structures.

7.2 The surrounding areas comprise predominantly village settlements of Shek Wu Tong, parking of vehicles, grassland, woodland, vacant land, storage use and agricultural land.

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 the Relevant Government Departments**

9.1 Apart from the government department as set out in paragraphs 9.2 and 9.3 below, other departments consulted have no objection to/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 supports the application:

Traffic

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

- (a) supports the planning application from traffic engineering perspective to address the local demand; and
- (b) advisory comments are in **Appendix IV**.

9.3 The following government department does not support the application:

Agricultural Development and Nature Conservation

Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) does not support the application from fisheries viewpoint as pond filling is generally not recommended;

- (b) although the fish pond in the Site is currently of unknown status, it has the potential to be used for fish culture operations in the future; and
- (c) no comment on the planning application from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

On 8.11.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received from the Conservancy Association and an individual. The individual objects to the application mainly on the grounds that the proposed uses appear to be a brownfield operation and the Site is located close to residential dwellings. The Conservancy Association expressed concerns on the application as a ‘destroy first, build later’ case as it involves regularization of filling of pond that would set an undesirable precedent (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (retail shop for hardware groceries and construction materials) with ancillary facilities and temporary public vehicle park (excluding container vehicle) for a period of five years and associated filling of pond at the Site zoned “V” (**Plan A-1**). Whilst the proposed uses are not entirely in line with the planning intention of the “V” zone, according to the applicant, they could serve the local demand for shop and services of hardware and construction materials and public vehicle park in the area. C of T supports the planning application from traffic engineering perspective as it could help address the local parking demand. According to the District Lands Officer/Yuen Long of Lands Department, 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 five years will not jeopardise the long-term planning intention of the “V” zone or provision of land for Small House development.
- 11.2 The proposed uses are considered not incompatible with the surrounding area which comprises predominantly village settlements of Shek Wu Tong, parking of vehicles, grassland, woodland, vacant land, storage use and agricultural land (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of the Planning Department (PlanD) considers that no significant adverse landscape impact arising from the proposed uses is anticipated.
- 11.3 The applicant also applies for of filling of pond of about 93m² with a depth of about 1m for erection of structures and site maintenance. While having no comment from nature conservation perspective, DAFC does not support the application from fisheries point of view as filling of pond is generally not recommended. In this regard, the applicant claims that the pond has been abandoned for a long period of time and no active fisheries operations are found within the Site. Other 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. Should the application be approved, the applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimise the potential environmental nuisance caused by the proposed uses on the surrounding areas.

- 11.4 Two similar applications for temporary shop and services or public vehicle park with filling of land within/straddling the same "V" zone in the vicinity of the Site have been approved by the Committee in the past five years as mentioned in paragraph 6 above. Approving the current application is in line with the Committee's previous decisions.
- 11.5 For the public comments mentioned in paragraph 10 above, the applicant claimed that the pond had yet been filled (**Appendix Ia**), and the departmental comments and planning assessments above are also 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 above, 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 20.12.2029. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a 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 20.6.2025;
- (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 20.9.2025;
- (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 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 20.6.2025;

- (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 20.9.2025;
- (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;
- (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 with filling of pond are not in line with the planning intention of the "V" zone which is primarily 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 31.10.2024
Appendix Ia	FI received on 17.12.2024
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public Comments
Drawing A-1	Site Layout Plan
Drawing A-2	Pond Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**