

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/904

<u>Applicant</u>	:	Mr. TANG Wai Kwan
<u>Site</u>	:	Lot 291 (Part) in D.D. 109, Kam Tin Road, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 295m 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>Zoning</u>	:	“Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	:	Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for shop and services (real estate agency) use with valid planning permission up to 19.10.2021 (**Plans A-2 and A-4**). Nevertheless, as the applicant intends to use the Site for real estate agency and solar panel agency, a fresh planning application is necessitated.
- 1.2 According to the applicant, the proposed temporary shop and services will be used as a real estate agency and a solar panel agency to serve the residents in the vicinity. The proposed development comprises three structures with a total floor area of about 150m² and building height of not more than 4m to 5m (all of one storey) on-site for real estate agency, solar panel agency, shelter and staff resting room. The Site is accessible via a local track from Kam Sheung Road and two private car parking spaces, without fixed locations, will be provided within the Site. The operation hours are between 9:00 a.m. and 5:00 p.m. Mondays to Saturdays and no operation on Sundays and public holidays. The site layout plan as submitted by the applicant is in **Drawing A-1**.

- 1.3 The Site is the subject of five previous applications for various temporary uses, including open storage of construction materials, private car park / and shop and services (real estate agency) uses, all of which were submitted by the same applicant as the current application (**Plan A-1 and Appendix II**). The last application (No. A/YL-KTS/795) for renewal of planning approval for temporary shop and services (real estate agency) was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 21.9.2018 for a period of 3 years. All approval conditions of the last application have been complied with.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form, plans and Supplementary (**Appendix I**) Information (SI) received on 25.8.2021 and 1.9.2021 respectively
 - (b) Further Information (FI) received on 8.10.2021 in (**Appendix Ia**) response to departmental comments
(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, the plans and SI in **Appendices I and Ia**. They can be summarized as follows:

The applicant would like to continue his business operation and use the Site for real estate agency and solar panel agency to serve the residents in the vicinity.

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. 31A) by posting site notice and sending notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was granted with planning permission on 21.9.2018 for shop and services (real estate agency) use for 3 years till 19.10.2021. The Site is currently not subject to any planning enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of five previous applications (No. A/YL-KTS/512, 524, 582, 676 and 795) all submitted by the same applicant as the current application for various temporary uses. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-KTS/512, involving the temporary open storage of construction materials, was rejected by the Committee in November 2000 mainly for reasons that the development was not in line / not compatible with the surrounding rural and residential developments; the development did not comply with the then Town Planning Board Guidelines for application for open storage and port back-up uses; and the applicant failed to demonstrate that the development would not generate adverse impacts.
- 5.3 The other four applications (No. A/YL-KTS/524, 582, 676 and 795), which are for temporary private car park / temporary shop and services (real estate agency) or renewal of the planning approvals for temporary shop and services (real estate agency), were approved with conditions by the Committee between 2011 and 2018 on similar considerations that approval of the applications on a temporary basis would not jeopardize the planning intention of the “V” zone; the developments could serve some of the needs of the local villagers and neighbouring residential developments; the developments were considered not incompatible with the surrounding environment; relevant departments had no adverse comment; and the technical requirements could be addressed by appropriate approval conditions. All approval conditions of the last application (No. A/YL-KTS/795) have been complied with. The validity of the renewed planning permission is until 19.10.2021.

6. Similar Applications

There are seven similar applications (No. A/YL-KTS/502, 648, 758, 782, 799, 863, 884) for various temporary shop and services uses (including real estate agency and martial art goods) within the same and adjoining “V” zones across Kam Sheung Road. All similar applications were approved with conditions by the Committee for a period of 3 years between 2010 to 2021 for similar reasons that approval of the applications on a temporary basis would not jeopardize the planning intention of the “V” zone; the developments were considered not incompatible with the surrounding environment; relevant departments had no adverse comment; and the technical requirements could be addressed by appropriate approval conditions. However, the planning permissions for applications No. A/YL-KTS/648, 758 and 782 were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix III** 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) paved, fenced and currently used for real estate agency use with a valid planning permission under Application No. A/YL-KTS/795 until 19.10.2021; and
 - (b) accessible from Kam Sheung Road via a local track.
- 7.2 The surrounding areas are rural in character intermixed with residential dwellings/structures, shop and services and some unused/vacant lands (**Plan A-2**):
- (a) to its north are storage yards and parking of vehicles and residential dwellings/structures. To its immediate west are residential estate named Kam Fung Garden (錦豐花園);
 - (b) to its east across the local track is a piece of vacant land with a planning approval for temporary shop and services (real estate agency) (under Application No. A/YL-KTS/884) and some storage yards. To its further east are residential estates named Greenview Garden (怡翠花園) and Placid Groves (芊逸居); and
 - (c) to its south across Kam Sheung Road are a residential estate named Noble Park (豪景富居) and some unused/vacant land.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized 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 to the Board.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The Site comprises an Old Scheduled Agricultural Lot 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.

- (b) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.
- (c) There is no Small House application approved or being processed at the Site.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, an approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be imposed.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Nature Conservation

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

He has no adverse comment on the application from the nature conservation perspective noting that previous applications for the same use have been approved by the Board.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the development.

- (b) Based on the submission in the application, the applicant would maintain the same drainage facilities at those implemented under previous application No. A/YL-KTS/795.
- (c) Should the application be approved, the conditions requiring the maintenance of drainage facilities implemented under application No. A/YL-KTS/795 and submission of the records of the existing drainage facilities on site to his satisfaction or of the Board should be included in the planning approval.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).
- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

Food and Environmental Hygiene

9.1.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

He has no adverse comment on the application. His advisory comments are at **Appendix IV**.

Electricity Safety

9.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

He has no comment on the application. His detailed comments on electricity safety are at **Appendix IV**.

District Officer's Comments

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any locals' comment on the application and he has no comment from departmental point of view.

9.2 The following government departments have no objection to / no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Chief Engineer / Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 3.9.2021, the application was published for public inspection. During the three-week statutory publication 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 3 years at the Site zoned "V" on the OZP. The planning intention of the "V" zone is to reflect existing recognized 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. Although the applied use is not entirely in line with the planning intention of the "V" zone, 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 3 years would not jeopardize the long-term planning intention of the "V" zone.
- 11.2 The applied use is considered not incompatible with the surrounding land uses which are rural in character intermixed with residential dwellings/structures, open storage yards, parking of vehicles and vacant/unused land.

- 11.3 According to the applicant, the temporary shop and services use under application is intended to serve the nearby locals. In view of its nature and taking into account the rural context of the Site, it is considered that the proposed development can serve some of the needs of the local residents. Besides, the Site and its nearby sites have been approved by the Committee for similar temporary shop and services uses before (**Plan A-1** and **Appendices II and III**). Given the proximity of the Site to Kam Sheung Road, it would unlikely generate significant adverse traffic impact or cause environmental nuisance to the surrounding residents. Relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hours and the type of vehicles are recommended in paragraphs 12.2(a) to (c) below. 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”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (d) to (h) below.
- 11.4 The Site is involved in three previous applications No. A/YL-KTS/582, 676 and 795 for shop and services (real estate agency) use submitted by the same applicant, all of which were approved with conditions by the Committee from 2012 to 2018. The other two previous applications (No. A/YL-KTS/512 and 524), one rejected and one approved by the Committee in 2010 and 2011 respectively, were different from the current application. Details of these previous applications are stated in paragraphs 5.2 and 5.3 above. There are seven similar applications for shop and services uses within the “V” zones in the vicinity of the Site as stated in paragraph 6 above, all of which were approved by the Committee from 2010 to 2021. Approval of the application is in line with the Committee’s previous decisions.
- 11.5 No public comment was received during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the proposed temporary shop and services for a period of 3 years.
- 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 3 years until 15.10.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) only private cars as defined in the Road Traffic Ordinance are allowed to be parked / stored on or enter / exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of the records of the existing drainage facilities on Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.1.2022
- (f) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 15.4.2022;
- (h) in relation to (g) 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 15.7.2022;
- (i) if any of the above planning condition (a), (b), (c), (d) or (f) 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
- (j) if any of the above planning condition (e), (g) or (h) 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 development is not in line with the planning intention of the "V" zone which is to reflect existing recognized 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. 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, Plans and SI received on 25.8.2021 and 1.9.2021 respectively
Appendix Ia	FI received on 8.10.2021
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within the “V” Zones in the vicinity of the Site
Appendix IV	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2021**