

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTS/927**

<b><u>Applicant</u></b>	: Promise Luck Limited represented by PlanPlus Consultancy Limited
<b><u>Site</u></b>	: Lots 339 S.A, 339 S.B (Part) and 339 RP (Part) in D.D. 109, Kam Tin South, New Territories
<b><u>Site Area</u></b>	: About 540m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	: 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. The Site falls within an area zoned “V” on the Kam Tin South OZP (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is paved, partly fenced, and partly used as a retail shop and partly used for parking of vehicles without planning permission (**Plans A-2 to A-4b**).
- 1.2 The applicant intends to operate a real estate agency at the Site to serve the neighbourhood. The proposed development involves four 1-storey structures with building height ranging from about 2.5m to 3m and total floor area of about 168.6m<sup>2</sup> (with canopies above most of the structures) for real estate agency office, lumber room and toilet uses. Three private car parking spaces and one loading/unloading bay for light goods vehicle will be provided at the Site. The

operation hours for the proposed development will be between 9:00 a.m. and 9:00 p.m. daily, including Sundays and public holidays. The Site is accessible by a section of local access connecting Kam Sheung Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of a previous application (No. A/YL-KTS/863) (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with supplementary information (Appendix I)  
received on 26.5.2022
  - (b) Further Information (FI) received on 14.9.2022 (Appendix Ia)
  - (c) FI received on 26.9.2022 (Appendix Ib)
- 1.5 On 15.7.2022, the Committee agreed to the applicant's request to defer making a decision on the application for two months.

## **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 FI at **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed development will cater for the demand for real estate agency service of the nearby residents.
- (b) Temporary approval of the application will not jeopardize the long-term planning intention of the "V" zone. The proposed development is not incompatible with the surrounding environment.
- (c) The proposed development will not induce adverse traffic, environmental, noise and drainage impacts to the surrounding areas. Similar applications in the "V" zone in the vicinity of the Site were granted by the Rural and New Town Planning Committee (the Committee). The applicant will comply with all the approval conditions should the application be approved.

### 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 publishing notices in the local newspapers and posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

The Site is not the subject of any active planning enforcement case.

### 5. **Previous Application**

- 5.1 Part of the Site is the subject of a previous application (No. A/YL-KTS/863) for temporary shop and services (real estate agency) for a period of 3 years. The application was approved with conditions by the Committee on 22.1.2021 mainly on the considerations that approval of the application on a temporary basis would not jeopardize the long-term planning intention; the development was not incompatible with the surrounding rural land uses; relevant departments had no adverse comments; and the departmental concerns could be addressed by appropriate approval conditions. However, the planning permission was revoked on 22.10.2021 due to non-compliance with the planning conditions related to the submission and implementation of drainage proposal, fire service installations proposal, and modification works to the existing public footpath and associated street furniture at the site entrance.
- 5.2 Compared with the last approved application No. A/YL-KTS/863, the current application submitted by a different applicant is for a similar temporary shop and services use but with changes in its site area / boundary and layout, and increase in the number of structures, building height and total floor area.
- 5.3 Details of the previous application are summarized in **Appendix II** and the location is shown on **Plan A-1**.

### 6. **Similar Applications**

- 6.1 There are eight similar applications (No. A/YL-KTS/758, 782, 795, 799, 884, 903, 904 and 914), involving five sites, for temporary shop and services use or renewal of the planning approval granted by the Committee within the same and adjoining “V” zones in the vicinity of the Site in the past five years. All the

applications were approved with conditions by the Committee for similar reasons as stated in paragraph 5.1 above. However, the planning permission of applications No. A/YL-KTS/758, 782 and 884 were revoked in March 2020, November 2018 and April 2022 respectively due to non-compliance with planning conditions.

- 6.2 Details of these applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:

- (a) paved, partly fenced, and partly used as a retail shop and partly used for parking of vehicles without planning permission; and
- (b) accessible via a section of local access connecting Kam Sheung Road.

- 7.2 The surrounding areas have the following characteristics:

- (a) to its immediate east, north and south are low-rise residential developments, namely Super King Court (威皇花園), Royal Benz (斌善豪苑), Hermitage Garden (帝峰苑) and Kam's Terrace (錦上豪庭) within the same "V" zone (**Plan A-2**). A real estate agency (with valid planning permission under Application No. A/YL-KTS/903) is found to its further north along Kam Sheung Road. To its further south and southeast along Kam Po Road are parking of vehicles, residential structures / dwellings and a storage yard; and
- (b) to its west across a footpath is a café and a cluster of shop and services (i.e. The Richfield (盈匯坊)) (**Plan A-2**), which are approved under planning applications No. A/YL-KTS/812 and 830 respectively. To its northwest and south are vacant land and a low-rise residential developments, i.e. Tsui Yee Garden (翠怡花園) shown on **Plan A-2** respectively.

## **8. Planning Intention**

The planning intention of the "V" 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**

All the government 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.

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

The application was published for public inspection. During the statutory publication period, three public comments from individuals were received objecting to the application mainly on the grounds that the proposed shop and service use would generate noise and environmental nuisance, fire safety and hygiene problems to the nearby residents; and the previous application for a similar shop and services use was revoked owing to non-compliance with approval conditions.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for the operation of a real estate agency for a period of 3 years in the “V” zone. The planning intention 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 the zone is primarily intended for development of Small Houses by indigenous villagers. Although the proposed use is not entirely in line with the planning intention of the “V” zone, it can support the village type developments and meet the needs of the neighbourhood. 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 would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 According to the applicant, the proposed use, which is for development of an estate agency, is intended to serve the nearby residents. The proposed development is considered not incompatible with the surrounding land uses which are rural in character intermixed with residential developments, shop and services, parking of vehicles and vacant land.

- 11.3 In view of its nature and small scale of the operation, the proposed development is not anticipated to cause significant adverse environmental, traffic and drainage impacts on the surrounding areas. Relevant government departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no adverse comment on the application. To minimize any possible environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.
- 11.4 The Site is involved in one previous application (No. A/YL-KTS/863) submitted by a different applicant for the same temporary shop and services use as stated in paragraph 5 above. Compared with the previous application (approved in January 2021 but subsequently revoked in October 2021), the current application applied for the same use but with some changes in the site area / boundary, layout and major development parameters. Besides, there are eight similar applications approved for similar temporary shop and services use in the same and adjoining “V” zones in the vicinity of the Site as detailed in paragraph 6 above. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Three public comments were received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, 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 mentioned in paragraph 10 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 11.11.2025. The following approval conditions and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) the implementation of the accepted 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 11.5.2023;

- (b) in relation to (a) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) 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 11.5.2023;
- (d) if the above planning condition (b) 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
- (e) if any of the above planning condition (a) or (c) 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. 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**

<b>Appendix I</b>	Application form with supplementary information received on 26.5.2022
<b>Appendix Ia</b>	FI received on 14.9.2022
<b>Appendix Ib</b>	FI received on 26.9.2022
<b>Appendix II</b>	Previous and similar applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a to A-4b</b>	Site photos

**PLANNING DEPARTMENT  
NOVEMBER 2022**