

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/974

<u>Applicant</u>	:	TANG Kwok Ki represented by Metro Planning & Development Company Limited
<u>Site</u>	:	Lot 291 (Part) in D.D. 109, Kam Sheung Road, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 3,400m 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 Five 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 five years. The Site falls within an area zoned “V” on the Kam Tin South OZP (**Plan A-1a**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone which requires planning permission from the Town Planning Board (the Board). The south-western portion of the Site is currently occupied by temporary structures for shop and services with a valid planning permission under application No. A/YL-KTS/904; and the remaining portions of the Site are used as storage of miscellaneous materials and parking of vehicles without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 Various parts of the Site are involved in 16 previous applications, including seven approved applications covering three separate sites within the southern part of the Site for temporary shop and services (details in paragraph 5 below). For the latest applications covering the abovementioned three areas, the planning permissions under applications No. A/YL-KTS/782 and 914 were revoked due to non-compliance with approval conditions; whereas the planning permission under application No. A/YL-KTS/904 is valid until 15.10.2024.
- 1.3 According to the applicant, the proposed use involves twelve structures with a total floor area of about 955m² and building height of not more than two storeys (6m)

for shop and services and ancillary storage, E&M and toilet uses. 16 parking spaces for private cars and three loading/unloading spaces for light goods vehicles would be provided at the Site. The proposed operation hours are between 9:00 a.m. to 9:00 p.m. daily, including Sundays and public holidays. The Site is accessible from Kam Sheung Road via a short section of local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary information received on 4.8.2023 (Appendix I)
- (b) Further Information (FI) received on 11.12.2023* (Appendix Ia)
- (c) FI received on 18.12.2023* (Appendix Ib)
- (d) FI received on 8.3.2024* (Appendix Ic)
- (e) FI received on 5.4.2024* (Appendix Id)
**accepted and exempted from publication and recounting requirements*

1.5 On 22.9.2023 and 26.1.2024, the Rural and New Town Planning Committee (the Committee) agreed to defer making decision on the application for two months each 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 in **Appendices I to Id**. They can be summarised as follows:

- (a) The proposed use is intended to serve the nearby locals. It is temporary in nature which will not jeopardise the long-term planning intention of the “V” zone.
- (b) Drainage and fire services installations (FSIs) proposals are submitted in support of the current application. The proposed use will not cause significant adverse traffic impact or nuisance to the surrounding areas. The applicant will strictly follow the relevant statutory environmental requirements and practice notes so as to minimise possible adverse impacts and environmental nuisance.
- (c) The applicant will submit Short Term Waiver (STW) application to address the unauthorised building works (UBWs) issue under lease as raised by the Lands Department (LandsD).

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” Requirement under Sections 12A and 16 of the Town Planning

Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notice 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 Various parts of the Site are involved in 16 previous applications, among which nine previous applications for temporary eating place, vehicle park, open storage, storage and vehicle repair workshop uses are not relevant to the current application. The remaining seven previous applications (No. A/YL-KTS/582, 676, 782, 795, 884, 904 and 914) covering three separate sites within the southern part of the Site (**Plan A1-b**) for various shop and services uses (including two renewals of temporary approvals) and submitted by applicants different from the current application were approved with conditions by the Committee between October 2012 to January 2022 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the proposed use was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment or their technical concerns could be addressed by appropriate approval conditions. The planning permissions under applications No. A/YL-KTS/582, 676 and 795, involving a same site, have lapsed; the permissions under applications No. A/YL-KTS/782, 884 and 914, involving two sites, were revoked in November 2018, April 2022 and October 2023 respectively due to non-compliance with the approval conditions on the submission and/or the implementation of drainage and FSIs proposals; and the permission under application No. A/YL-KTS/904 is valid until 15.10.2024.

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

6. **Similar Application**

There is no similar application within the same “V” zone.

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

7.1 The Site is:

- (a) currently paved and partly fenced-off;
- (b) occupied by temporary structures in the south-western portion for shop and services with a valid planning permission under application No. A/YL-KTS/904; and the remaining portions of the Site are used as storage of

miscellaneous materials and parking of vehicles without valid planning permission; and

- (c) accessible from Kam Sheung Road to the south via a short section of local track.

7.2 The surrounding areas are mainly rural in character intermixed with residential structures/dwellings including the village settlement of Kat Hing Wai, church, open storage/storage yards, carpark, grassland and vacant land. Residential developments namely Greenview Garden and Kam Fung Garden are to the east and west of the Site respectively.

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 Houses. 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 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 adverse comment on the application:

Land Administration

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

- (a) LandsD has adverse comment on the application;
- (b) the Site comprises an Old Schedule 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;
- (c) LandsD has grave concerns given that there are UBWs 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; and

- (d) there is no Small House application approved or under processing within the Site.

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

During the statutory publication period, one public comment was received from an individual raising concern that the proposed development should be properly planned and built.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services 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. Other commercial, community and recreational uses may be permitted on application to the Board. According to the applicant, the proposed use is intended to serve the nearby locals. The proposed use is considered not in conflict with the planning intention of the “V” zone and according to DLO/YL, LandsD, there is no Small House application approved or under processing within the Site. It is considered that approval of the application on a temporary basis for 5 years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding areas intermixed with uses including residential structures/dwellings, open storage/storage yards and carpark. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that no significant landscape impact arising from the proposed use is anticipated.
- 11.3 DLO/YL, LandsD has adverse comments on the application in view of UBWs and/or uses on the subject lot. In this regard, the applicant states that application for STW will be submitted to LandsD to address the UBWs issue. Relevant advisory clause on need for application to LandsD for regularisation of UBWs is recommended.
- 11.4 Other relevant departments consulted, including the Commissioner for Transport, the Director of Environmental Protection (DEP), the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. To minimise any potential environmental nuisance, 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’ issued by DEP.

- 11.5 Various parts of the Site are involved in seven approved previous applications for shop and services as mentioned in paragraph 5.1 above. Whilst the planning permissions under applications No. A/YL-KTS/782, 884 and 914 were revoked due to non-compliance with the approval conditions on the submission and/or the implementation of drainage and FSIs proposals, the respective applications were submitted by applicants different from the current application. For the current application, drainage and FSIs proposals have been submitted and accepted by CE/MN of DSD and D of FS respectively. Approving the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comment raising concern on the application as stated 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 comment mentioned in paragraph 10, the Planning Department 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 19.4.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implementation of the accepted 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 19.1.2025;
- (b) in relation to (a) above, the implemented drainage facilities at the site shall be maintained at all times during the planning approval period;
- (c) the implementation of the accepted 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 19.1.2025;
- (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 attached in **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 use 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 intentions, 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 4.8.2023
Appendix Ia	FI received on 11.12.2023
Appendix Ib	FI received on 18.12.2023
Appendix Ic	FI received on 8.3.2024
Appendix Id	FI received on 5.4.2024
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Plan A-1a	Location plan
Plan A-1b	Previous application plan

Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a to 4b	Site photos

**PLANNING DEPARTMENT
APRIL 2024**