

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1029

<u>Applicant</u>	: Wai Fat Investment Management Company Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lot 228 (Part) in D.D. 111, Pat Heung, Yuen Long
<u>Site Area</u>	: About 434m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of three years and filling of land at the application site (the Site) which falls within an area zoned “V” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than those on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Filling of land within the “V” zone also requires planning permission from the Board. The Site is currently vacant and covered by weeds (**Plan A-4**).
- 1.2 The Site is accessible from Fan Kam Road via a local track (**Plan A-2**). According to the applicant, the proposed use involves a single-storey structure with a building height of not exceeding 4.5m and a gross floor area of not more than 230m² for a grocery shop and toilet (**Drawing A-1**). The entire Site is proposed to be filled with concrete of about 0.2m in depth for site formation (**Drawing A-2**). The proposed operation hours are between 9:00 a.m. and 9:00 p.m. daily including public holidays. One parking space for private car and one loading/unloading space for light goods vehicle will be provided within the Site to support the proposed use. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application Form with supporting information received (Appendix I)
on 21.8.2024
- (b) Further Information (FI) received on 24.9.2024* (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**, and can be summarised as follows:

- (a) The proposed use on a temporary basis will not jeopardise the long-term planning intention of the “V” zone, and would benefit the residents in the vicinity.
- (b) There is a similar application (No. A/YL-PH/966) approved for shop and services use near the Site. Similar treatment on the current application should be granted. The proposed use is not incompatible with the surrounding areas dominated by village houses.
- (c) The proposed use will not cause any adverse impacts in terms of drainage, traffic, environmental and fire safety aspects, and will not create significant nuisance to the surrounding areas. A drainage proposal is submitted in support of the current application.

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

The applicant is the “current land owner”. Detailed information would be deposited at the meeting for Member’s inspection.

4. **Background**

The Site is part of a larger site which is subject to a planning enforcement action against unauthorised development (UD) involving storage use (No. E/YL-PH/900) (**Plan A-2**). An Enforcement Notice was issued on 15.8.2024. Since the UD has not been discontinued upon expiry of the notice, prosecution action has been taken. Further site inspection will be conducted to ascertain the UD has been discounted under prevailing procedures.

5. **Previous Application**

Part of the Site is the subject of a previous application No. A/YL-PH/125, involving a larger site area, for temporary open storage of construction machinery which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 3.10.1997. The considerations of this previous application are not relevant to the

current application which involves a different use. The location and details of the previous application are at **Plan A-1** and **Appendix II** respectively.

6. Similar Applications

- 6.1 There are 11 similar applications, involving eight sites, for various temporary shop and services uses within the “V” zone in the vicinity of the Site in the past five years. All of the applications were approved with conditions by the Committee between July 2019 and January 2024 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding uses; and the concerned government departments consulted in general had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permissions under applications No. A/YL-PH/816, 818, 867, 880 and 925 were subsequently revoked between January 2022 and June 2024 due to non-compliance with approval conditions.
- 6.2 Details of the similar applications are summarised in **Appendix III** and the 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) currently vacant and covered by weeds; and
 - (b) accessible from Fan Kam Road via a local track.
- 7.2 The surrounding areas are rural in character comprising mainly residential structures intermixed with open storage/storage yards, a car repair workshop, a grocery shop and real estate agency (with valid permission under application No. A/YL-PH/966), vacant land and grassland.

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 the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

Government department 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 IV** and **V** respectively.

10. Public Comment Received During Statutory Publication Period

On 30.8.2024, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received expressing that there was no previous approval for the proposed use at the Site and drainage facilities should be installed to prevent pollution to the water course (**Appendix VI**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of three years and filling of land at the Site zoned “V” (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the “V” zone, it can help meet the demand for such use from locals. Besides, the District Lands Officer/Yuen Long of Lands Department advises that there is no Small House application approved or under processing at the Site. The proposed use of temporary nature would not adversely affect the land availability for NTEH/Small House within the “V” zone in the long term. Approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 Filling of land within the “V” zone requires planning permission from the Board. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character comprising mainly residential structures intermixed with open storage/storage yards, a car repair workshop, a grocery shop and real estate agency, vacant land and grassland. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that significant landscape impact arising from the proposed use is not anticipated and has no objection to the application from landscape planning perspective.
- 11.4 Other relevant government departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or adverse comment on the application from traffic and fire safety perspectives respectively. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. 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 the Environmental Protection Department to minimise the possible environmental nuisance caused by the proposed use on the surrounding areas.

- 11.5 There are 11 approved similar applications for various temporary shop and services uses in the vicinity of the Site as detailed in paragraph 6.1 above. Approving the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comment mentioned in paragraph 10 above, the government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and taking into account the public comment 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 three years until 4.10.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) 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 4.4.2025;
- (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 4.7.2025;
- (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 4.4.2025;
- (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 4.7.2025;
- (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; and
- (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 V**.

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

the proposed use with associated filling of land is not in line with the planning intention of the "V" zone which is to provide land primarily 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 with Supporting Information received on 21.8.2024
Appendix Ia	FI received on 24.9.2024
Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos