

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

**APPLICATION NO. A/YL-PH/1032**

- Applicant** : Mr LAM Wai Dan represented by Lanbase Surveyors Limited
- Site** : Lots 336 S.D, 336 S.H and 336 RP (Part) in D.D. 111, Pat Heung, Yuen Long, New Territories
- Site Area** : About 248m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)  
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services for a Period of Three Years and Associated 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 associated 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 paved and used for parking of vehicles without valid planning permission (**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 two single-storey structures with a building height of about 5m and a total gross floor area of not more than 66m<sup>2</sup> (**Drawing A-1**). The applicant also applies for regularisation of associated filling of land for the entire Site for not more than 0.2m for site formation (**Drawing A-2**). One loading/unloading space for light goods vehicles will be provided within the Site to support the proposed use. The operation hours will be between 8:00 a.m. and 11:00 p.m. daily including public holidays. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 The Site is the subject of two previous planning applications submitted by the same applicant at the same site for the same use. The last application (No. A/YL-PH/925) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 23.9.2022, but the planning permission was subsequently revoked on 23.6.2024 due to non-compliance with approval conditions. Compared with the last approved application, the current application involves the same site area/boundary, internal layout and major development parameters, except that the current application involves regularisation of associated filling of land at the Site (details in paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Planning Statement received on 8.10.2024 and Supplementary Information (SI) received on 17.10.2024 (**Appendices I and Ia**)
  - (b) Further Information (FI) received on 21.11.2024\* (**Appendix Ib**)
  - (c) FI received on 16.12.2024\* (**Appendix Ic**)
- \* accepted and exempted from publication and recounting requirements*
- 1.5 On 6.12.2024, the Committee agreed to defer making a decision on the application for two months 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, Planning Statement, SI and FIs at **Appendices I to Ic**, 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 is not incompatible with the surrounding areas dominated by village houses. There is inadequate local shop and services and the proposed use can serve the local community.
- (b) The Site is the subject of two previously approved applications (No. A/YL-PH/816 and 925) which were identical to the current application in respect of site area and development parameters. There are also similar applications approved for shop and services use in the “V” zone. Similar consideration on the current application should be granted.
- (c) Under the previously approved applications, the implementation of the drainage facilities has been complied with. However, the implementation of the run-in/out proposal was not complied with as the contractor quits without notification, hence the relevant report was not submitted to the relevant government departments for approval. The applicant will appoint a new contractor and will comply with all the approval conditions to be imposed.
- (d) The proposed use will not cause any adverse impact on drainage, traffic, environmental and fire safety aspects, and will not create significant nuisance to the

surrounding areas. The run-in/out, drainage and fire service installations (FSIs) proposals accepted under the previous applications have been submitted in support of the current application.

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

The applicant is not the “current land owner” of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notices and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

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

### 5. **Previous Applications**

5.1 The Site is the subject of two previous applications (No. A/YL-PH/816 and 925) submitted by the same applicant at the same site for the same use, which were approved with conditions by the Committee on 4.10.2019 and 23.9.2022 respectively mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was not incompatible with the surrounding land 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 permissions of these two applications were subsequently revoked on 4.3.2022 and 23.6.2024 respectively due to non-compliance with approval conditions in relation to the implementation of the run-in/out, drainage and FSIs proposals.

5.2 Compared with the last approved application (No. A/YL-PH/925), the current application involves the same site area/boundary, internal layout and major development parameters, except that the current application involves regularisation of associated filling of land at the Site. Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

### 6. **Similar Applications**

6.1 There are 16 similar applications, involving 12 sites, for various temporary shop and services uses within the “V” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between January 2020 and January 2025, mainly on the considerations as stated in paragraph 5.1 above. The planning permissions under applications No. A/YL-PH/818, 867, 880 and 889 were subsequently revoked between January 2022 and December 2023 due to non-compliance with the approval conditions. Details of

these similar applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.

- 6.2 Other than the similar applications mentioned in paragraph 6.1 above, two applications (No. A/YL-PH/1042 and 1043) for temporary shop and services uses within the same “V” zone on the OZP will be considered at the same meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) currently paved and used for parking of vehicles without valid planning permission; and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding land uses are rural in character comprising mainly residential structures intermixed with vehicle parks, a restaurant, a storage yard, grassland and vacant 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

## **9. Comments from Relevant Government Departments**

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, if any, are provided in **Appendices IV** and **V** respectively.

## **10. Public Comment Received During Statutory Publication Period**

On 18.10.2024, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received expressing that the Site is subject to revocation of the previous application due to non-compliance

with conditions on traffic and fire safety aspects and the current application should be rejected (**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 associated 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, the applicant claims that it can help meet the demand for such use from the 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. It is considered that 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 (CE/MN, DSD) 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 comprising mainly residential structures intermixed with vehicle parks, a restaurant, a storage yard, grassland and vacant land. 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.
- 11.4 The Site is the subject of two previously approved applications submitted by the same applicant for the same use at the same site and the planning permissions were revoked due to non-compliance with approval conditions in relation to the implementation of the run-in/out, drainage and FSIs proposals. For the current application, the applicant has submitted run-in/out, drainage and FSIs proposals in support of the application. The Chief Highway Engineer/New Territories West, of Highways Department, Commissioner for Transport, CE/MN, DSD and Director of Fire Services consider the submitted proposals acceptable and have no adverse comment on or no objection to the application subject to the implementation of the accepted proposals to their satisfaction respectively. In this regard, sympathetic considerations may be given to the application. Should the application be approved, the applicant will be advised that sympathetic consideration may not be given to any further applications should he fail to comply with any of the approval conditions again resulting in revocation of planning permission.
- 11.5 Other relevant government departments consulted have no objection to or adverse comment on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. It is also recommended to advise the applicant 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.

- 11.6 There are 16 similar applications for various temporary shop and services uses in the vicinity of the Site approved by the Committee in the past five years as detailed in paragraph 6.1 above. Approving the current application is in line with the Committee's previous decisions.
- 11.7 Regarding the public comment mentioned in paragraph 10 above, 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 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 14.2.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### **Approval Conditions**

- (a) the implementation of the accepted run-in/out proposal at Fan Kam Road within **9** months from the date of planning approval to the satisfaction of the Director of Highways and Commissioner for Transport or of the TPB by 14.11.2025;
- (b) 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 14.11.2025;
- (c) the submission of the photo record of the existing drainage facilities 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 14.5.2025;
- (d) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) if the above planning condition (d) 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
- (f) if any of the above planning condition (a), (b) 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 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**

<b>Appendices I and Ia</b>	Application Form with Planning Statement received on 8.10.2024 and SI received on 17.10.2024
<b>Appendix Ib</b>	FI received on 21.11.2024
<b>Appendix Ic</b>	FI received on 16.12.2024
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public Comment
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Land Filling Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos