

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/880

<u>Applicant</u>	: Wah Tung Development Company Limited
<u>Site</u>	: Lots 582 S.B and 582 S.C in D.D. 111 and Adjoining Government Land, Fan Kam Road, Pat Heung, Yuen Long
<u>Site Area</u>	: About 350m ² (including about 94.5m ² of Government Land (27%))
<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”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Shop and Services (Motor-vehicle Showroom) 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 (motor-vehicle showroom) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use in “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of ten previous applications for various temporary open storage, car trading and shop and services uses. The last application No. A/YL-PH/850 for temporary shop and services (car beauty services) was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 20.11.2020 for a period of 3 years. The planning permission is valid until 20.11.2023.
- 1.3 According to the applicant, the proposed development involves a shelter of 3m high with a single-storey structure (2.6m high) underneath for retail shop with a total floor area of about 85m². An open area within the Site will be used to display motor-vehicle (private cars and light goods vehicles only). Two private car parking

spaces will be provided on-site. The operation hours are between 9:00 a.m. and 6:00 p.m. daily, including public holidays. The Site is accessible from Fan Kam Road. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 When compared to the last approved application (No. A/YL-PH/850), the current application submitted by the same applicant is for a different shop and service use, with the same site area, floor area and number of parking space.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with planning statement and plans (**Appendix I**) received on 12.4.2021
 - (b) Further Information (FI) received on 3.6.2021 in response (**Appendix Ia**) to departmental comments
(exempted from publication requirement)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form in **Appendix I** and FI in **Appendix Ia**. They can be summarized as follows:

- (a) After approval of the last application, there is a change to the intended use at the Site due to the outbreak of coronavirus. The proposed development will only involve vehicles less than 4.3 tonnes. No repairing, spraying and dismantling works will be undertaken at the Site.
- (b) The proposed use is not incompatible with the surrounding areas, and it will not jeopardize the long-term planning intention of the “V” zone. There is a similar application for shop and services use within the same “V” zone approved by the Board. The proposed development will not result in adverse environmental impact. The Water Supplies Department (WSD) will be able to freely enter the Water Works Reserve (WWR) area within the Site during the planning approval period.
- (c) With proper management, the environmental hygiene of the Site can be improved. The proposed use will mainly serve the local residents, and no objection has been received after having consulted the locals.

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

The applicant is not a “current land owner” of the private land portion of the Site but has complied with the requirement 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. 31A) by posting a site notice and sending

notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members' inspection. For the Government land portion, the "Owner's Consent/Notification" Requirements are not applicable.

4. **Background**

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

5. **Previous Applications**

5.1 The Site was the subject of ten previous applications for various temporary open storage, car trading and shop and services uses. The previous nine applications were submitted by applicants different from the current application, while the last one was submitted by the same applicant of the current application. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

Eight approved applications

5.2 Applications No. A/YL-PH/130, 265 and 321 for temporary open storage of building materials (glass sheets), and No. A/YL-PH/349, 455 and 488 for temporary open storage of new vehicles (light goods vehicles and private cars) prior to sale were approved with conditions by the Committee or the Board on review for a period of 1 or 3 years between 1998 and 2005, mainly on the considerations that the development was unlikely to induce adverse traffic and environmental impacts; part of the site would be affected by the then "Fan Kam Road Improvement Works", village type development at the site was unlikely thus appropriate use in the interim could be considered; temporary open storage use at the site could be favourably considered to alleviate the acute shortage of open storage land while Government measures to relieve acute shortage of sites for open storage activities was being undertaken; and/or the application was in line with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13C) in that previous approvals had been granted at the site, approval conditions had been complied with, and no adverse government / local comments had been received. However, the planning permission for No. A/YL-PH/321 was revoked in 2000 due to non-compliance with approval conditions.

5.3 Application No. A/YL-PH/514 for temporary open storage of new vehicles (light goods vehicles and private cars) prior to sale was approved with conditions by the Board on review in 2006 on the consideration that although the then TPB PG-No. 13D stated that a maximum period of two years might be allowed upon renewal of planning permission for an applicant to identify suitable site for relocation and no further renewal would be given unless under very exceptional circumstances for Category 4 sites, the Board noted that no adverse departmental comments had been received. As such, sympathetic consideration was given and a shorter approval period of 12 months was granted for the applicant to find a relocation site.

- 5.4 The last application (No. A/YL-PH/850) for temporary shop and services (car beauty services) was approved with conditions on 20.11.2020 mainly on the considerations that temporary approvals would not jeopardize the long-term planning intention of “V” zone; the development was not incompatible with the surrounding area; and relevant government departments consulted had no adverse comment on the application. None of the approval conditions have been complied, including the submission and implementation of drainage and fire service installations proposals. The planning permission is valid until 20.11.2023.

Two rejected applications

- 5.5 Applications No. A/YL-PH/541 and 563 for temporary open storage of private cars prior to sale and temporary car trading were rejected by the Board on review in 2007 and 2008 respectively (the latter was dismissed by the Appeal Board in 2011) for the reasons that the continued occupation of the site for temporary open storage use was not in line with the planning intention of the “V” zone; the development was not in line with the then TPB PG-No. 13D in that the site fell within a Category 4 area where the intention was to encourage phasing out of non-conforming uses, and there was no information to demonstrate why suitable sites within the “Open Storage” (“OS”) zone could not be made available for the applied use; and approval of the application would set an undesirable precedent for other similar uses, the cumulative effect of which would result in a general degradation of the environment of the area (No. A/YL-PH/563 only).

6. Similar Applications

There are eight similar applications involving five sites for temporary shop and services (real estate agency, daily supplies and food retail shop, provision store and bicycle goods shop) within the same “V” zone. All of them were approved with conditions by the Committee between 2013 and 2021 on similar considerations that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding land uses; and relevant departments had no adverse comment. The planning permission of one application was 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 Area (Plans A-2 to A-4b)

- 7.1 The Site is:

- (a) paved and vacant with a vacant structure; and
- (b) accessible from Fan Kam Road.

- 7.2 The surrounding area are mainly rural in character and intermixed with residential dwellings / structures, home for the elderly, stores, open storage / storage yards, car service centres, workshop and vacant / unused land:
- (a) to the east and south are residential dwellings / structures, stores, storage yard, car service centre, workshop, home for the elderly and vacant land; and
 - (b) to the north and west across Fan Kam Road are residential dwellings / structures, open storage yards, car service centre and vacant / unused 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 Government Land (GL) and 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.
- (b) No permission is given for occupation of GL (about 94.5m² subject to verification) included in the Site. Any occupation of GL without the Government’s prior approval is not allowed.
- (c) Within the Site, Lots 582 S.B and 582 S.C in D.D. 111 were divided from Lot 582 RP in D.D.111 on 28.8.2018 registered in the Land Registry. Prior to the division, Short Term Waiver (STW) No. STW3152 for Storage of Vehicles and Ancillary Use has been issued to Lot 582 RP in 2008.
- (d) If the planning application is approved, the STW holder(s) will need to

apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicant has to either exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. 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 LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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.

- (e) There is no Small House application approved or under processing 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, 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 incorporated.

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 Fan Kam Road.
- (b) If the proposed run-in/out is agreed by TD, the applicant should provide the run in/out at Fan Kam Road to the satisfaction of TD and HyD in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) His Work Division is revisiting the technical feasibility statement for the improvement to Fan Kam Road between Po Kin Road and Kam Tin Road (the FKR project). It is noted that the Site is located in the vicinity of Section 4 of Fan Kam Road (i.e. the section between Shui Kan Shek and Kam Tin Road) to be improved. Therefore, interface may exist between the application and the FKR project. The applicant is required to provide the detailed scheme of the application once available for necessary coordination works.

- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on submission, implementation and maintenance of drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

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

Building Matters

9.1.7 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 the Site, the 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 BO.
- (c) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

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

He has not received any locals' comment on the application and he has no comment on the application.

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

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

10. Public Comment Received During Statutory Publication Period

On 20.4.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from an individual (**Appendix IV**), objecting to the application mainly on the grounds that the proposed use will cause environmental pollution, increase fire hazard risk and affect safety and living quality of the villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (motor-vehicle showroom) for a period of 3 years in the “V” zone. 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. The proposed use is not entirely in line with the planning intention of the “V” zone. Nevertheless, DLO/YL, LandsD advised that there is no Small House approved or under processing at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed development abutting Fan Kam Road is considered not incompatible with the surrounding area which is rural in character and intermixed with residential dwellings / structures and vacant / unused land. According to the applicant, the proposed use is mainly to serve the local residents.
- 11.3 In view of the nature and scale of the proposed use and its location abutting Fan Kam Road, it is unlikely that the proposed use would generate significant adverse traffic and drainage impacts and environmental nuisance to the surrounding area. Relevant 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 nuisance, approval conditions restricting the operation hour and vehicle type are recommended in paragraph 12.2 (a) to (b) 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, CHE/NTW of HyD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (j) below.
- 11.4 The Site is subject to ten previous applications for various temporary open storage, car trading and shop and services uses, with two rejected and eight approved by the Committee between 1998 and 2020 mainly for the reasons as stated in paragraph 5 above. Compared with the last approved application (No. A/YL-PH/850) for temporary shop and services (car beauty services), the current application is submitted by the same applicant, and for similar temporary shop and services use and subject to the same scale. There is no major change in planning circumstance since the last approval. There are also eight similar applications for various temporary shop and services uses approved by the Committee between 2013 and 2021 with the same “V” Zone. Approval of the current application is in line with the Committee’s decision on previous and similar applications.
- 11.5 One public comment objecting to the application was received during the statutory publication period as mentioned in paragraph 10 above. In this regard, the departmental comments as well as 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 comment mentioned in paragraph 10, the Planning Department has no objection to proposed the temporary shop and services (motor-vehicle showroom) 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 11.6.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, 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;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of a run-in/out proposal at Fan Kam Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the TPB by 11.12.2021;
- (e) in relation to (d) above, the implementation of the run-in/out proposal at Fan Kam Road within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the TPB by 11.3.2022;
- (f) the submission of 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 11.12.2021;
- (g) in relation to (f) above, the implementation of 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 11.3.2022;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of 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 11.12.2021;
- (j) in relation to (i) above, the implementation of 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 11.3.2022;

- (k) if any of the above planning conditions (a), (b), (c) or (h) 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
- (l) if any of the above planning conditions (d), (e), (f), (g), (i) or (j) 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 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 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 with planning statement and plans received on 12.4.2021
Appendix Ia	FI received on 3.6.2021
Appendix II	Previous applications covering the Site
Appendix III	Similar applications within the same "V" zone on the Pat Heung OZP

Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Previous and Simliar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**