

RNTPC Paper No. A/YL-PH/889
For Consideration by
the Rural and New Town
Planning Committee
on 24.9.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/889

<u>Applicant</u>	: Mr. KWOK Moon-fai represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lot 1033 S.A (Part) in D.D. 111, Ha Che, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: About 220m ²
<u>Lease</u>	: Old Schedule House Lot held under Block Government Lease
<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 for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 5 years at the application site (the Site). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use under the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently unused and occupied by a vacated two-storey structure (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the Site is intended for shop and services as a real estate agency to serve the nearby villagers. The proposed development will involve one 2-storey structure with floor area of about 150m² and building height of not more than 5m for real estate agency use within the Site. The operation hours of the real estate agency will be from 9:00 a.m. to 7:00 p.m. daily. No car parking space will be provided within the Site. The Site is accessible from Fan Kam Road via a local access. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary information and plans received on 27.7.2021 (Appendix I)
- (b) Further Information (FI) received on 14.9.2021 in response to departmental comments* (Appendix Ia)
- (c) FI received on 16.9.2021 in response to departmental comments* (Appendix Ib)

**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, supplementary information, plans and FIs in **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed temporary estate agency will make use of an existing structure at the Site. It is a proposed shop and services use which would benefit the nearby residents of Ha Che Tsuen.
- (b) The proposed development is not incompatible with the surrounding rural environment, and will complement the adjacent village houses development. Similar application for shop and services use has been approved by the Board.
- (c) The proposed development will not result in adverse traffic, environmental and drainage impacts to the surrounding areas.

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

The applicant is the sole “current land owner”. 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 Application

There is no previous application covering the Site.

6. Similar Applications

- 6.1 There are 9 similar applications involving 7 sites for various temporary shop and services uses within the “V” zones in the vicinity of the Site. They were all approved by the Rural and New Town Planning Committee (the Committee) or by the Board on review between 2005 and 2021. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Eight of them (Applications No. A/YL-PH/672, 761, 813, 816, 818, 837, 850 and 880) for various temporary shop and services, including real estate agency, pet clinic, car beauty services, and motor-vehicle showroom uses were approved with conditions by the Committee between September 2013 and June 2021 mainly on similar grounds that temporary approval would not jeopardize the long-term planning intention; the applied uses were not incompatible with the surrounding land uses; and relevant departments had no adverse comments. However, the planning approval for application No. A/YL-PH/761 was revoked in May 2020 due to non-compliance with approval conditions.
- 6.3 The remaining application (No. A/YL-PH/496) for temporary sale of second hand cars for 3 years, with its nature akin to an open storage use, was approved by the Board on review in November 2005 for 12 months mainly to allow time for the applicant to find suitable relocation sites.

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

- 7.1 The Site is:
- (a) located to the southwest of the village houses cluster of Ha Che Tsuen;
 - (b) currently unused and occupied by a vacated two-storey structure; and
 - (c) accessible from Fan Kam Road via a local track.
- 7.2 The surrounding areas are rural in character predominated by Small Houses, residential structures / dwellings, parking of vehicles, fallow agricultural land, chicken sheds, open storage yards and vacant / unused land:
- (a) to its south, east and further north are Small Houses, residential structures / dwellings (closest 5m to the south) and parking of vehicles; and
 - (b) to its immediate north, further south and west (including the adjacent “Agriculture” (“AGR”) zone) are chicken sheds, fallow agricultural land, open storage yard 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 the 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 an Old Scheduled House 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on Site, if any. 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 LandsD.
- (c) 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):

Considering that there is neither parking provision nor vehicular access to the lot and the induced traffic impact is minimal, he has no comment on the application.

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) 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 by DEP 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.

Nature Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

Noting that the Site is zoned “V” and is disturbed in nature, he has no comment on the application from the nature conservation perspective.

Drainage

9.1.6 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 the submission of a revised drainage proposal, implementation and maintenance of the revised drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be included.
- (c) His detailed comments on the submitted drainage proposal are at **Appendix IV**.

Fire Safety

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

- (a) He has no objection in-principle to the application 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 FSIs 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 (Cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.8 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, 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 Buildings Ordinance (BO).

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

Electrical Safety

9.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no comment on the application from electricity supply safety aspect.
- (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

His office has not received any comment from the locals and has no comment on the application.

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

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

10. Public Comment Received During Statutory Publication Period

On 3.8.2021, the application was published for public inspection. During the three-week statutory publication period, a public comment (**Appendix III**) from an individual was received. The commenter objects to the application mainly on the grounds that the proposed use would result in adverse environmental impact and fire safety risk, and affect the safety and living standard of the nearby villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 5 years at the Site zoned “V” on the OZP. 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 has advised that there is currently no Small House application approved or under processing at the Site. It is considered that temporary approval of the application for a period of 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 land uses, which are rural in character predominated by residential structures / dwellings, fallow agricultural land and vacant / unused land.
- 11.3 According to the applicant, the proposed temporary real estate agency is intended to serve the nearby villagers. It can meet the service need of the villagers in the vicinity (**Plan A-2**). In view of its nature and small scale, the applied use is not expected to cause significant adverse traffic, environmental and drainage impacts on the surrounding areas. Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no objection to or no adverse comment on the application. To minimize the possible environmental nuisance generated by the proposed development, approval condition restricting operation hours is recommended in paragraph 12.2 (a) below. The applicant will also be advised to adopt the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions (b) to (f) in paragraph 12.2 below.
- 11.4 There is no previous application covering the Site. There are 8 similar applications for temporary shop and services uses, with their nature similar to the current application, within the “V” zones in the vicinity of the Site approved by the Committee between 2013 and 2021 as stated in paragraph 6 above. Another application (No. A/YL-PH/496), with its nature more akin to an open storage use, was approved by the Board on review in November 2005 for 12 months mainly to allow time for the applicant to identify relocation sites. Approval of this application is thus in line with the Committee’s previous decisions.

- 11.5 A public comment was received during the statutory publication period objecting to the application as mentioned in paragraph 10 above. In this regard, the departmental comments and planning assessments and considerations 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 as mentioned in paragraph 10 above, the Planning Department has no objection to the temporary shop and services for a period of 5 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 5 years until 24.9.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 24.3.2022;
- (c) in relation to (b) above, the implementation of the revised 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 24.6.2022;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 24.3.2022;
- (f) in relation to (e) 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 24.6.2022;
- (g) if any of the above planning condition (a) or (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

- (h) if any of the above planning condition (b), (c), (e) or (f) 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 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. No strong planning justification has been given in the submission to justify 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 date when 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 and Plans received on 27.7.2021
Appendix Ia	FI received on 14.9.2021
Appendix Ib	FI received on 16.9.2021
Appendix II	Similar Applications in the "V" zones in the vicinity of the Site
Appendix III	Public Comment

Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**