

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

**APPLICATION NO. A/YL-PH/925**

<b><u>Applicant</u></b>	:	Mr. LAM Wai Dan represented by LANBASE Surveyors Limited
<b><u>Site</u></b>	:	Lots 336 S.D, 336 S.H and 336 RP (Part) in D.D. 111, Pat Heung, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 248 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	:	“Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services use for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use in the “V” zone which requires permission from the Town Planning Board (the Board). The Site is currently partly fenced, paved and vacant (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of a single-storey structure (not more than 5m high) with floor area of about 66m<sup>2</sup> for shop and services use such as retail shop, fast food shop and related commercial services to serve the local community. A loading/unloading space for light goods vehicles will be provided within the Site. The operation hours are between 8:00 a.m. and 11:00 p.m. daily, including Sundays and public holidays. The Site is accessible to Fan Kam Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site is involved in a previous application (No. A/YL-PH/816) submitted by the same applicant for the same temporary shop and services use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in October 2019 (detailed in paragraph 5 below).

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

- (a) Application form and supplementary information (**Appendix I**)  
received on 27.7.2022
- (b) Supplementary planning statement (**Appendix Ia**)
- (c) Further Information (FI) received on 9.9.2022 (**Appendix Ib**)

## **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 FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed use does not contravene the planning intention of the “V” zone, and its temporary approval will not jeopardize the long-term planning of the “V” zone. Also, the proposed use is similar in terms of the nature and scale of a ground floor shop provided within a New Territories Exempted House (NTEH) which is always permitted in the “V” zone.
- (b) The Site is involved in a previous application (No. A/YL-PH/816) approved for the same use, under which the applicant has complied with all the approval conditions related to the submission of technical proposals. Nevertheless, the planning permission was revoked owing to non-compliance with the approval conditions related to the implementation of the technical proposals. In this regard, the applicant undertakes to comply with all the approval conditions should the current application be approved by the Board.
- (c) The Site is physically separated from the adjacent village house and will have an exclusive site entrance. The owners of the adjacent lots have no objection to the proposed development.
- (d) There are applications for similar use in the “V” zone in the Pat Heung area approved by the Board. Therefore the proposed use is considered compatible with the surrounding area. The proposed use could also provide more choices to serve the local residents’ daily needs.
- (e) The proposed use would not generate adverse traffic, environmental, visual and drainage impacts to the surrounding areas.

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

The applicant is not a “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” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and notifying the Pat

Heung 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 planning enforcement action.

#### **5. Previous Application**

- 5.1 The Site is the subject of a previous application (No. A/YL-PH/816) submitted by the same applicant for the same proposed use as the current application. The application was approved with conditions by the Committee in October 2019 mainly for the reasons that temporary approval would not frustrate the long-term planning intention; the proposed development was not incompatible with the surrounding land uses; it would unlikely cause significant adverse impacts; and concerned departments consulted generally had no objection to the application or their technical concerns could be addressed by relevant approval conditions. Nevertheless, the planning permission was revoked in March 2022 due to non-compliance with approval conditions related to the implementation of run-in/out, drainage and fire service installations (FSIs) proposals.
- 5.2 Compared with the last application, the current application is submitted by the same applicant and is the same in terms of the applied use, site area / boundary, site layout and major development parameters.
- 5.3 Details of the previous application are summarized in **Appendix II** and the location is shown on **Plan A-1**.

#### **6. Similar Applications**

- 6.1 There are 7 similar applications (No. A/YL-PH/744, 788, 813, 839, 850, 867 and 880), involving 5 sites, for temporary shop and services within the same "V" zone in the vicinity of the Site in the past 5 years. All the applications were approved with conditions by the Committee between June 2017 and June 2021 on similar considerations as stated in paragraph 5.1 above. Nevertheless, the planning permission for one of them (No. A/YL-PH/867) was revoked in January 2022 owing to non-compliance with the approval conditions.
- 6.2 Details of the applications are summarized in **Appendix II** 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) partly fenced, paved and vacant; and
- (b) accessible from Fan Kam Road via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its west and northwest are village houses, parking of vehicles and a real estate agency. To its further west, across Fan Kam Road, are village houses in Ha Che (下輦) and vacant land;
- (b) to its north and northeast are village houses, car parks, fallow agricultural land and vacant land;
- (c) to its south and southeast across a local track and a nullah are village houses in San Lung Wai (新隆圍), grass land and active agricultural land; and
- (d) to its east are a site with works in progress and fallow agricultural 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**

All the 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 are provided in **Appendices III and IV** respectively.

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

The application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received. The

commenters object to the application mainly on the grounds that the proposed development would cause adverse traffic impact, environmental pollution and safety concerns to the nearby villagers; and the approval conditions of the previous application submitted by the same applicant have not yet been fully complied with.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services for a period of 3 years, which is a Column 2 use within 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. 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. Whilst the proposed development is not entirely in line with the planning intention of the “V” zone, it can help meet the shop and services need of the nearby villagers and support the village development in the area. DLO/YL of LandsD advises 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 3 years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The proposed use with a small scale is considered not incompatible with the surrounding rural land uses, which mainly consist of residential dwellings / structures, vehicle parks, active / fallow agricultural land and vacant land.
- 11.3 In view of its nature and scale, it is anticipated that the proposed use would not result in significant adverse traffic, environmental and drainage impacts to the surrounding areas. 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 / address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be 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 the DEP.
- 11.4 The Site is involved in a previous application (No. A/YL-PH/816) for the same applied use submitted by the same applicant as the current application, which was approved by the Committee in October 2019 for reasons as stated in paragraph 5.1 above. When compared with the last approved application, the current application is the same in terms of the applied use, site area / boundary, layout and major development parameters. Whilst the last planning permission was revoked due to non-compliance with conditions related to the implementation of the accepted run-in / out, drainage and FSIs proposals, the applicant has included in the current application the relevant

technical proposals to support the current the application, with no adverse comment received from concerned departments. There are 7 similar applications within the same “V” zone in the vicinity of the Site (**Plan A-1**). All applications were approved with conditions by the Committee on similar considerations as stated in paragraph 6.1 above. Approval of the current application is considered in line with the Committee’s decisions on previous and similar applications.

- 11.5 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, 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 having taken into account the public comments mentioned in paragraph 10 above, 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 3 years until 23.9.2025. The following approval conditions 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 **6** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 23.3.2023;
- (b) the implementation of the accepted 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 23.3.2023;
- (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 implementation of the accepted 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 23.3.2023;
- (e) 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

- (f) if any of the above planning condition (a), (b) or (d) 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 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 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>Appendix I</b>	Application form and supplementary information received on 27.7.2022
<b>Appendix Ia</b>	Supplementary planning statement
<b>Appendix Ib</b>	FI received on 9.9.2022
<b>Appendix II</b>	Previous and similar applications
<b>Appendix III</b>	Government departments' general comments

<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments
<b>Drawings A-1</b>	Site layout plan
<b>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2022**