

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

**APPLICATION NO. A/YL-PH/927**

- Applicant** : 張志光先生 represented by 許幸如女士
- Site** : Lots 749 S.C, 749 RP (Part) and 750 S.B RP (Part) in D.D. 111, Pat Heung, Yuen Long
- Site Area** : About 870m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)  
[maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services (Bicycle Goods Shop and Convenience Store) 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 (bicycle goods shop and convenience store) for a period of 3 years. 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 mostly paved, vacant and deposited with a converted container (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of a two-storey structure with floor area of about 224m<sup>2</sup> and building height of about 6.5m for bicycle goods shop on the ground floor and convenience store on the upper floor. Two car parking spaces for private cars and one loading/unloading space for light goods vehicles will be provided at the Site. The operation hours are between 9:00 a.m. and 8:00 p.m. daily, including public holidays. The Site is accessible from 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 four previous applications (No. A/YL-PH/291, 468, 496 and 867) (details at paragraph 5 below) for various use / temporary uses. The last

application No. A/YL-PH/867 submitted by the same applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of three years in January 2021. Nevertheless, the planning permission was revoked in January 2022 due to non-compliance with approval conditions.

- 1.4 Compared with the development scheme under the last approved Application No. A/YL-PH/867, the current application is submitted by the same applicant and is the same in terms of the proposed use, site layout / boundary and major development parameters, except a slight increase of the site area from 825m<sup>2</sup> to 870m<sup>2</sup> (+45m<sup>2</sup> or about + 5.5%).
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application form and supplementary information received on 2.8.2022 and 8.8.2022 **(Appendix I)**
  - (b) Further Information (FI) received on 30.9.2022 **(Appendix Ia)**
  - (c) FI received on 17.12.2022 **(Appendix Ib)**
- 1.6 On 23.9.2022 and 25.11.2022, the Committee agreed to defer making a decision on the application twice 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, supplementary information and FIs in **Appendices I to Ib**. They can be summarised as follows:

- (a) The proposed development is temporary in nature which will not jeopardise the long-term planning intention of the “V” zone. It is not incompatible with the surrounding rural land uses.
- (b) The proposed use will not create adverse traffic and environmental impacts to the surrounding areas. Similar applications for temporary shop and services use in the vicinity have been approved by the Committee.
- (c) Approval of the application on a temporary basis can better utilise the land resource before it is developed for Small House. The applicant has consulted the locals prior to submission of the application with no objection received.
- (d) The applicant will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department.
- (e) The previously approved application (No. A/YL-PH/867) for the same use was revoked because the applicant’s agent passed away suddenly rendering nobody to handle the compliance of approval conditions and extension of time application.

The applicant commits to comply with all the approval conditions after obtaining the planning approval.

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

The applicant is not the “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 sending notification letter to the Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

The Site is currently not the subject of any active planning enforcement case.

### 5. **Previous Applications**

- 5.1 The Site, in part or in whole, is the subject of four previous applications (No. A/YL-PH/291, 468, 496 and 867) for various use / temporary uses. The first three applications for public vehicle park and temporary sale of second hand cars were not relevant to the current application. The last application No. A/YL-PH/867 submitted by the same applicant for the same use was approved with conditions by the Committee in January 2021 mainly for the reasons that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone; the applied use was not incompatible with the surrounding land uses; relevant departments consulted had no objection to or no adverse comment; and their technical concerns could be addressed by appropriate approval conditions. Nevertheless, the planning permission was revoked in January 2022 due to non-compliance with approval conditions related to the submission / implementation of the drainage proposal, and the implementation of the fire service installations (FSIs) proposal. In the current application, the applicant has included a FSIs proposal and a drainage proposal in support of the application.
- 5.2 Compared with the development scheme under the last approved Application No. A/YL-PH/867, the current application is the same in terms of the proposed use, site layout / boundary and major development parameters, except a slight increase of the site area from 825m<sup>2</sup> to 870m<sup>2</sup> (+5.5% or about + 45m<sup>2</sup>).
- 5.3 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1b**.

## 6. **Similar Applications**

- 6.1 There are 9 similar applications (No. A/YL-PH/761, 813, 816, 818, 837, 850, 880, 889 and 925), involving 7 sites, for temporary shop and services uses within the “V” zones in the vicinity of the Site in the past 5 years. All applications were approved with conditions by the Committee between December 2017 and September 2022 on similar considerations as stated in paragraph 5.1 above. Nevertheless, the planning permissions for Applications No. A/YL-PH/761 and 816 were revoked in May 2020 and March 2022 respectively owing to non-compliance with the approval conditions.
- 6.2 Details of the similar applications are summarised in **Appendix II** and the locations are shown on **Plan A-1a**.

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

- 7.1 The Site is:
- (a) mostly paved, vacant and deposited with a converted container; and
  - (b) accessible from Fan Kam Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the north are open storage yards and a bean curd production factory. To the further north are an open storage yard, residential dwellings / structures and vacant land;
  - (b) to the east and south are residential dwellings / structures and vacant land. To the further east and southeast, across a water course, are a storage yard, grassland and residential dwellings/structures; and
  - (c) to the west across Fan Kam Road are residential dwellings / structures, an open storage yard (which is the site approved for temporary shop and services under Application No. A/YL-PH/837), a car service workshop, and parking of vehicles (one of the sites with valid planning permission under Application No. A/YL-PH/871).

## 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 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 a village representative of Sheung Che Tsuen and an individual were received. The commenters object to the application mainly on the grounds that the proposed use would cause adverse traffic, environmental, visual and drainage impacts and pose fire safety risk and pedestrian safety concerns thus affecting the well-being of the villagers nearby; and the applied use, if needed, should be accommodated in the urban area or industrial premises.

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

11.1 The application is for proposed temporary shop and services (bicycle goods shop and convenience store) at the Site, which is a Column 2 use within the “V” zone. 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. 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 needs of the nearby residents and thus support the village development in the area. District Land Officer/Yong Long of Lands Department advises that there is no Small House application approved or under processing at the Site. In this regard, it is considered that temporary approval of the application for a period of 3 years would not jeopardise 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 dwellings / structures, open storage yards, a bean curd production factory, parking of vehicles and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning

Department considers that no adverse landscape impact arising from the proposed development within the Site is anticipated in the subject “V” zone.

- 11.3 In view of its nature and scale, the proposed use is not expected to cause significant adverse traffic, environmental, drainage impacts and fire safety concern to the surrounding areas. Relevant departments consulted including the Commissioner for Transport, Director of Environmental Protection (DEP), Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) have no adverse comment on the application. To minimise the possible environmental nuisances generated by the development and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 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” issued by DEP.
- 11.4 The Site is the subject of four previous planning applications for various use / temporary uses. The first three applications for public vehicle park and temporary sale of second hand cars were not relevant to the current application. The last application (No. A/YL-PH/867) submitted by the same applicant for the same use was approved by the Committee in January 2021 for reasons as stated in paragraph 5.1 above (**Plan A-1b**). Nevertheless, the planning permission of Application No. A/YL-PH/867 was revoked in January 2022 due to non-compliance with approval conditions related to the submission / implementation of drainage proposal and implementation of FSIs proposal. In the current application, the applicant has included a FSIs proposal and a drainage proposal in support of the application with no adverse comment received from relevant departments. Should the Committee decide to approve the current application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 11.5 There are 9 similar applications within the “V” zones in the vicinity of the Site in the past five years (**Plan A-1a**). 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 in line with the Committee’s decisions on previous and similar applications.
- 11.6 Regarding the objecting public comments on the application as detailed in paragraph 10 above, 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 temporary use under application 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 17.2.2026. The following approval conditions 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 17.8.2023;
- (b) 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 17.11.2023;
- (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 17.8.2023;
- (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 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. 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 2.8.2022 and 8.8.2022
<b>Appendix Ia</b>	FI received on 30.9.2022
<b>Appendix Ib</b>	FI received on 17.12.2022
<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>Drawing A-1</b>	Site layout plan
<b>Plan A-1a</b>	Location plan
<b>Plan A-1b</b>	Previous applications 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  
FEBRUARY 2023**