

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/964

<u>Applicant</u>	:	張志光先生 represented by 許幸如女士
<u>Site</u>	:	Lots 749 S.C, 749 RP (Part) and 750 S.B RP (Part) in D.D. 111, Sheung Che Tsuen, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 1,220m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Pat Heung Outline Zoning Plan 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 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of 3 years and filling of land. The Site falls within an area zoned “V” on the Pat Heung OZP. 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). Filling of land within the “V” zone also requires planning permission from the Board. The Site is bisected by Fan Kam Road, fenced, paved, erected with a few temporary structures and used for open storage of construction materials and vehicles without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves two 1 to 2-storey structures with building heights of 3m and 6.5m and a total floor area of about 349m² for bicycle goods shop, convenience store and car accessories shop. Three parking spaces for private cars and one loading/unloading space for light goods vehicles (LGVs) will be provided at the Site. The applicant also applies for regularisation of filling of land to about +23.1mPD for the whole Site. The proposed 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 local tracks. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in eight previous applications, including the last approved application (No. A/YL-PH/927) submitted by the same applicant as the current application for shop and services use (bicycle goods shop and convenience store) (details at paragraph 5 below). The current application is submitted mainly to incorporate the western portion across Fan Kam Road into the Site and to accommodate an additional structure and increase in floor area. A comparison of the major development parameters of the current application and application No. A/YL-PH/927 is summarised as follows:

Parameters	Previous Application No. A/YL-PH/927 (a)	Current Application No. A/YL-PH/964 (b)	Difference (b) - (a)
Site Area	About 870 m ²	About 1,220m ²	+350m ² (+40.2%)
Total Floor Area	About 224 m ²	About 349m ²	+125 m ² (+55.8%)
No. of Structures	1	2	+1 (+100%)
Building Height	2 storeys / About 6.5m	1 – 2 storeys / About 3m and 6.5m	No change to maximum building height
No. of Private Car Parking Spaces	2	3	+1 (+50%)
No. of LGV Parking Spaces	1	1	No change

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

- (a) Application form and supplementary information received on 4.7.2023 and 7.7.2023 (**Appendix I**)
- (b) Further Information (FI) received on 9.8.2023, 10.8.2023 and 11.8.2023* (**Appendix Ia**)

**accepted and exempted from publication and recounting requirements*

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** and **Ia**. 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) Approval of the application on a temporary basis can better utilise the land resource before it is developed for long term use. The proposed development is intended to

serve the needs of the nearby residents within walking/cycling distance. The proposed development would not result in adverse traffic, drainage and environmental impacts to the surrounding areas nor increase the fire safety risk in the area. Similar applications for temporary shop and services use in the vicinity have been approved by the Rural and New Town Planning Committee (the Committee).

- (c) 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.
- (d) The current application is intended to include the western portion across Fan Kam Road, which is within the same lot of the site of the previous application No. A/YL-PH/927, into the current Site to facilitate the Short Term Waiver (STW) application. The applied use is similar in nature to the previously approved application. Consent from the managers of the land owner of Lot 750 S.B RP in D.D. 111 involved (i.e. Cheung Sze Un Tso (張仕元祖)) has been obtained.
- (e) The applicant will apply for STW should the current application is approved, while the existing unauthorised building structures at the Site will be removed.

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 subject to planning enforcement actions against unauthorised development (UD) involving storage use. Enforcement Notices No. E/YL-PH/908 and 909 were issued on 7.8.2023 requiring discontinuation of the UD.

5. Previous Applications

- 5.1 The Site, in part or in whole, is involved in eight previous applications (No. A/YL-PH/291, 468, 473, 486, 496, 747, 867 and 927).
- 5.2 Applications No. A/YL-PH/291, 468, 473, 486, 496 and 747 for various uses (including public car/lorry park; temporary carpark; and temporary open storage) are not relevant to the current application which is for shop and services use.
- 5.3 Applications No. A/YL-PH/867 and 927 submitted by the same applicant as the current application for temporary shop and services (bicycle goods shop and convenience store) use were approved by the Committee with conditions in January

2021 and February 2023 respectively, mainly on the considerations 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; and relevant departments consulted had no objection to or no adverse comment and their technical concerns could be addressed by appropriate approval conditions. The planning permission under application No. A/YL-PH/867 was revoked in January 2022 due to non-compliance with approval conditions.

- 5.4 The last approved application No. A/YL-PH/927 is valid until 17.2.2026. Approval condition for implementation of the fire service installations proposal has been complied with, while compliance with approval conditions for submission and implementation of the drainage proposal are still pending.
- 5.5 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 nine similar applications (No. A/YL-PH/761, 813, 816, 818, 837, 850, 880, 889 and 925), involving seven sites, for various 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 5.3 above. The planning permissions under applications No. A/YL-PH/761 and 816 were revoked in May 2020 and March 2022 respectively due to non-compliance with 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) bisected by Fan Kam Road;
 - (b) fenced, paved, erected with a few temporary structures and used for open storage of construction materials and vehicles without valid planning permission; and
 - (c) accessible from Fan Kam Road via local tracks.
- 7.2 The surrounding areas have the following characteristics:
- (a) to the northeast and east are open storage/storage yards. To the further northeast are a factory, residential dwellings/structures and vacant land;

- (b) to the south are residential dwellings/structures of the village settlement of Chuk Hang (竹坑); and
- (c) to the southwest, west and northwest are residential structures/dwellings of the village settlement of Sheung Che (上輦), an open storage/storage yard within the site with planning permission for temporary shop and services under application No. A/YL-PH/837, and parking of vehicles (including one carpark 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 the ground level 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 Apart from the government department as set out in paragraph 9.2 below, other 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.

9.2 The following government department has adverse comments on the application:

Land Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD):

- (a) LandsD has adverse comments on the application;
- (b) the Site comprises Old Schedule Agricultural Lots 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;
- (c) LandsD has grave concerns given that there are unauthorised building works (UBWs) and/or uses on Lot 750 S.B in D.D. 111 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD; and

- (d) no small house application approved or under processing within the Site.

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 members of Cheung Sze Un Tso which is the land owner of Lot 750 S.B RP in D.D. 111; and an individual were received. The former objects to the application mainly on the grounds that there are disputes on land matters as there is no consensus from members of the concerned Tso and the managers did not discharge their duty properly; while the latter raises concerns that the previous permission was revoked due to non-compliance with approval conditions; and there are drainage and fire safety aspects issues.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years and filling of land at the Site zoned “V”. 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 is intended to serve the needs of the nearby residents. DLO/YL of LandsD 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 frustrate the long-term planning intention of the “V” zone. Filling of land within the “V” zone requires planning permission from the Board. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the filling of land from drainage and environmental perspectives.
- 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/storage yards, parking of vehicles and vacant land.
- 11.3 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs at the Site. In this regard, the applicant states that he has applied for STW with LandsD and undertakes to remove the existing UBWs at the Site. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is also recommended. Relevant departments consulted including the Commissioner for Transport, DEP and CE/MN of DSD have no adverse comment on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised 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 generated by the proposed development.

- 11.4 The Site is the subject of two approved previous applications. Compared with the last approved application No. A/YL-PH/927, the current application is submitted mainly to include the western portion across Fan Kam Road, which is within the same lot of the site of the previous application No. A/YL-PH/927, into the current Site. In addition, there are nine approved similar applications in the vicinity of the Site in the past 5 years as detailed in paragraph 6.1. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comment objecting to the application received from members of Cheung Sze Un Tso, the applicant indicates that he has obtained consent from the managers of the concerned Tso. The applicant will be advised to resolve any land issues relating to the proposed development with the concerned owners of the Site. For the other public comment, 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 25.8.2026. 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 25.2.2024;
- (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 25.5.2024;
- (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 25.2.2024;
- (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 for a departure from the planning intentions, 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 and supplementary information received on 4.7.2023 and 7.7.2023
Appendix Ia	FI received on 9.8.2023, 10.8.2023 and 11.8.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Plan A-1a	Location plan with similar applications

Plan A-1b	Previous applications plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
AUGUST 2023**