

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/966

<u>Applicant</u>	:	Top Reward (China) Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	:	Lot 222 RP (Part) in D.D. 111, Sheung Che Tsuen, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 335m 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 (**Plan A-1**). 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 fenced, paved, erected with a few temporary structures, and currently used as open storage of pallets, baskets and wooden boards without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed use involves a two-storey structure with building height of 7m and a total floor area of not more than 230m² for grocery shop and real estate agency. One parking space for private car and one loading/unloading space for light goods vehicle will be provided at the Site. The applicant also applies for regularisation of filling of land by concrete to levels ranging from about +24.4 mPD to +24.9mPD for the whole Site. The proposed operation hours are between 9:00 a.m. and 9:00 p.m. daily, including public holidays. The Site is accessible from Fan Kam Road via a local track. The site layout and filling of land plans submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form with supplementary information received (Appendix I)
on 7.8.2023
- (b) Further Information (FI) received on 5.12.2023* (Appendix Ia)
**accepted and exempted from publication and recounting requirements*

1.4 On 22.9.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months 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 FI in **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The proposed uses are 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 uses including grocery shop and real estate agency are intended to serve the needs of the nearby residents and would benefit the residents in the vicinity. The proposed shop and services use would not be related to tofu making factory as alleged in the public comments.
- (c) The proposed uses would not result in significant traffic, drainage, noise and environmental impacts on the surrounding areas. Similar applications for temporary shop and services use in the vicinity have been approved by the Committee.
- (d) The applicant will apply for Short Term Waiver (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 the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently 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 15 similar applications, involving ten sites, for various temporary shop and services uses (including renewal of planning approval granted) within the “V” zones in the vicinity of the Site in the past 5 years. All of the applications were approved with conditions by the Committee between September 2018 and October 2023, mainly on the considerations that approvals of the applications on a temporary basis would not frustrate the long-term planning intention of the “V” zone; the proposed uses were 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 permissions under applications No. A/YL-PH/816, 818, 867, 880 and 889 were revoked between January 2022 and December 2023 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-1**.

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

7.1 The Site is:

- (a) fenced, paved, erected with a few temporary structures, and currently used for open storage of pallets, baskets and wooden boards without valid planning permission; and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding areas are rural in character intermixed with open storage/storage yards, vehicle park, grasslands and vacant land. A factory is located to the immediate east of the Site. To the further northwest of the Site across Fan Kam Road are the residential structures/dwellings of the village settlement of Sheung Che.

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

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 222 RP 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, eight public comments from villagers of the surrounding villages and individuals were received objecting to the application mainly on the grounds that the Site was used as a food factory for producing bean products, which has caused adverse noise, environmental impacts as well as hygiene issues and approval of the current application would allow the continuation of the operation of the food factory.

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” (**Plan A-1**). 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 use 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.

- 11.2 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 application from drainage and environmental perspectives.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character rural in character intermixed with residential structures/dwellings, factory, open storage/storage yards, vehicle park, grasslands and vacant land. The Chief Town Planner/Urban Design and Landscape, Planning Department considers that no significant landscape impact arising from the proposed use is anticipated.
- 11.4 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs on the subject lot. In this regard, the applicant states that application for STW will be made to LandsD and the existing UBWs would be removed. Relevant advisory clause on the need for application to LandsD for regularisation for UBWs is also recommended.
- 11.5 Relevant departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or 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 use.
- 11.6 There are 15 approved similar applications in the vicinity of the Site as detailed in paragraph 6.1. Approving the current application is in line with the Committee’s previous decisions.
- 11.7 Regarding the public comment objecting to the application as stated in paragraph 10 above, the applicant clarifies that the proposed use is for grocery shop and real estate agency only and would not be used as food factory. The government departments’ comments and planning assessments above are also 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 26.1.2027. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a 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 26.7.2024;
- (b) the implementation of the 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 26.10.2024;
- (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 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 26.7.2024;
- (e) in relation to (d) 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 26.10.2024;
- (f) 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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 use 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 received on 7.8.2023
Appendix Ia	FI received on 5.12.2023
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Filling of land plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JANUARY 2024**