

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-SK/309**

<b><u>Applicant</u></b>	: Mr. CHOW Yuet-fai
<b><u>Site</u></b>	: Lot 1289 S.F RP in D.D. 114, Kam Sheung Road, Shek Kong, Yuen Long
<b><u>Site Area</u></b>	: About 90 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<b><u>Zoning</u></b>	: “Village Type Development” (“V”)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Office with Ancillary Storage Area and Car Parking for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval for temporary office with ancillary storage area and car parking at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “V” on the approved Shek Kong OZP (**Plan A-1**). According to the Notes of the OZP, ‘Office’ is neither a Column 1 nor a Column 2 use within the “V” zone. Nevertheless, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). The Site is currently used for the applied use with a valid planning permission.
- 1.2 The Site is the subject of three previous applications (Nos. A/YL-SK/183, 203 and 238) submitted by the same applicant of the current application for the same applied use, all of which were approved by the Rural and New Town Planning Committee (the Committee) between 2013 and 2018. The last application (No. A/YL-SK/238) for the same use was approved with conditions for a period of 3 years by the Committee on 3.8.2018 with validity until 3.8.2021. All approval conditions have been complied with and the planning permission will lapse on 4.8.2021.

- 1.3 According to the applicant, three container-converted structures (two double-decked and one single-decked) with a maximum height of 6m high and a total floor area of about 114m<sup>2</sup> are erected on-site for office and storage uses. Two covered private car parking spaces and one parking space for light goods vehicle are provided at the Site. The operation hours are from 9:00a.m. and 6:00p.m. on Mondays to Fridays and no operation on Saturdays, Sundays and public holidays. The Site is accessible through two ingress/egress points located at the southern and northern boundary of the Site via an adjoining local track to Kam Sheung Road. The layout plan and floor plans submitted by the applicant are shown at **Drawings A-1 to A-3**.
- 1.4 Compared with the last approved application submitted by the same applicant, there are no change in the applied use, site area/ boundary, height of the structures and number of parking spaces in the current application, except an increase in floor area from 98m<sup>2</sup> to 114m<sup>2</sup> (+16m<sup>2</sup>) due to an additional single-decked container-converted office at the upper floor, which would be used as temporary office.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Attachments received on **(Appendix I)** 6.5.2021
  - (b) Further information (FI) received on 23.6.2021 **(Appendix Ia)** (exempted from publication)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**, and are briefly summarised as follows:

- (a) the use of the Site is same as the previous approved application for a temporary office to provide maintenance, redecoration and minor renovation works/ services. The ancillary storage areas are for the storage of tools, small equipment and materials. The two private car parking spaces and one parking space for light good vehicle provided at the Site are for staff uses only; and
- (b) more spaces are needed for the proposed temporary office and thus an additional small container-converted office on top of the private car parking space is proposed under the current application (**Drawing A-2**).

## **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 (the Ordinance) (TPB PG-No. 31A) by obtaining consent of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

#### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPG PG-No. 34C) are relevant to the application. The major assessment criteria are as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

#### **5. Background**

The Site is not subject to any active enforcement case.

#### **6. Previous Applications**

- 6.1 The Site is the subject of three previous applications (Nos. A/YL-SK/183, 203 and 238) for the same applied use submitted by the same applicant of the current application. They were approved with conditions by the Committee between 2013 and 2018 mainly for the reasons that approvals of the application on temporary basis would not frustrate the planning intention of the “V” zone; there was no Small House application at the site; the development was considered not incompatible with the surrounding environment; no significant adverse environmental impact to the surrounding area is envisaged; relevant Government departments had no objection to or adverse comment on the application and approval conditions could be imposed to address the technical concerns.
- 6.2 The last application No. A/YL-SK/238 was approved on 3.8.2018 on similar grounds to the previous two applications that approval of the application on a temporary basis would not frustrate the planning intention of the “V” zone; there was no Small House application at the Site; the development was considered not incompatible with the surrounding environment; no significant adverse environmental impact to the surrounding area is envisaged; relevant Government departments had no objection to or adverse comment on the application and approval conditions could be imposed to address the technical concerns. All of the approval conditions have been complied with. Details of the applications are summarised in **Appendix II** and location shown on **Plan A-1**.

## **7. Similar Applications**

- 7.1 There are 17 similar applications (No. A/YL-SK/152, 160, 164, 167, 169, 185, 195, 204, 205, 214, 228, 234, 253, 254, 284, 295 and 298) within the same and adjoining “V” zones and all of them had been approved by the Committee. Details of the applications are summarised in **Appendix III**.
- 7.2 The 17 applications for various shop and services uses with or without ancillary office were approved with conditions by the Committee for a period of 1 to 5 years from 2009 to 2021 respectively. These applications were approved mainly for the reasons that approvals on a temporary basis would not frustrate the planning intention of the “V” zone; the proposed developments could provide service to serve the needs of the local villagers and neighbouring residential developments; there was no Small House application at the application sites; the developments were considered not incompatible with the surrounding environment; no significant adverse environmental impact to the surrounding area was envisaged; Government departments consulted had no objection to or adverse comment on the applications and approval conditions could be imposed to address the technical departmental concerns. However, the planning approvals under Applications No. A/YL-SK/152, 167, 169, 195, 228 and 234 were revoked on 8.3.2010, 28.1.2013, 15.12.2012, 8.2.2015, 26.6.2020 and 7.9.2020 respectively due to non-compliance with approval conditions.

## **8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on **Plan A-3**, and site photos on **Plan A-4**)**

- 8.1 The Site is:
- (a) currently used for the applied use (with planning permission under A/YL-SK/238); and
  - (b) abutting Kam Sheung Road to its south and is accessible through two ingress/egress points located at the southern and northern boundaries of the Site via an adjoining local track.
- 8.2 The surrounding areas are predominantly rural in character with a mixture of residential structures/dwellings, a car audio shop, a workshop, parking of vehicles, open storage/ storage yards, and vacant/unused land (**Plan A-2**):
- (a) to its east, north, west and southwest across Kam Sheung Road are areas zoned “V” covering To Uk Tsuen and Tse Uk Tsuen, which are mainly occupied by a number of residential settlements, village houses and vacant/unused land; and
  - (b) to its south and southeast across Kam Sheung Road under “Agriculture” (“AGR”) zone are a car audio shop operated without a valid planning permission (the planning permission was revoked on 6.9.2020 under Application No. A/YL-SK/234), parking of vehicles, residential structures/dwellings and vacant/unused land.

## **9. Planning Intention**

The planning intention of the “V” zone is primarily 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 the “V” zone is primarily intended for development of Small Houses by indigenous villagers, it is also intended to concentrate village type development within the “V” 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. Other commercial, community and recreational uses may be permitted on application to the Board.

## **10. Comments from Relevant Government Departments**

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

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

- (a) the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval from the Government;
- (b) Lot No. 1289 S.F RP in D.D. 114 is covered by Short Term Waiver (STW) No. 4127 to permit structures erected thereon for the purpose of ‘temporary office with ancillary storage area and car parking’; and
- (c) should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Such application(s) 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 premium or fee, as may be imposed by the LandsD.

### **Traffic**

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) having regard to the FI (**Appendix Ia**), he has no comment on the application from traffic engineering perspective;

- (b) should the application be approved, approval condition that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included; and
  - (c) the Site is connected to the public road network via a section of a local access road which is not managed by his department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- 10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road; and
  - (b) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

- 10.1.4 Comments of the Director of Environmental Protection (DEP):
- (a) the applicant is advised to follow the relevant measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance; and
  - (b) there is no environmental complaint in relation to the Site received in the past three years.

### **Drainage**

- 10.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) he has no objection in-principle to the applied development from the public drainage point of view, given the Site has an area of only 90m<sup>2</sup>; and
  - (b) the applicant should be reminded to provide his own drainage facilities to collect the runoff generated from the Site or passing through the Site, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities. The applicant should also be reminded to consult DLO/YL, LandsD and seek consent from the

relevant owners for any works to be carried out outside his lot boundary before commencement of the drainage works.

### **Building Matters**

10.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO);
- (b) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO; and
- (c) his detailed comments are at **Appendix V**.

### **Fire Safety**

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

- (a) he has no objection in-principle to the proposal 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 locations where the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the applied structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **District Officer's Comments**

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

he has not received any comments from locals upon close of consultation and he has no particular comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (c) Commissioner of Police (C of P);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD).

## **11. Public Comment Received During Statutory Publication Period**

On 14.5.2021, the application was published for public inspection. During the three-week statutory publication period, one public comment from an individual (**Appendix IV**) was received. He objects to the application mainly on the grounds that the provision of office, storage and car park within the rural area would lead to traffic congestion, environmental pollution, fire safety hazard and adversely affect the safety and quality of living of the villagers.

## **12. Planning Considerations and Assessment**

12.1 The application is for renewal of planning approval at the Site zoned “V” for temporary office with ancillary storage area and car parking for a period of 3 years (**Plan A-1**). Compared with the previous approval, the current proposal mainly involves an increase in floor area by 16m<sup>2</sup> due to the additional single-decked container-converted structure for temporary office use. There is no change in the applied use, site area/boundary, height of the structures and number of parking spaces. All approval conditions of the last application No. A/YL-SK/238 have been complied with and the planning permission will lapse on 4.8.2021. 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. Although the applied temporary office with ancillary storage area and car parking use is not in line with the planning intention of the “V” zone, noting that there is a previous planning approval for the same use, it is considered approval of the application for 3 years on a temporary basis would not frustrate the long-term planning intention of “V” zone.

12.2 The applied use comprising three 1 to 2 storeys container-converted structures with a total floor area of about 114m<sup>2</sup> is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, shops and services, parking of vehicles and vacant/unused land (**Plan A-2**). The proposed increase in floor area by 16m<sup>2</sup> is minor. Relevant departments consulted including C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no adverse comment on/no objection to the application from traffic, drainage, landscape and fire safety perspectives. It is anticipated that the



applied development would not have significant adverse traffic, drainage, landscape, and fire safety impacts on the surrounding areas. To minimise any possible environmental impact/nuisance generated by the applied use, approval conditions restricting operation hours, types of vehicles used and workshop activities are recommended in paragraphs 13.2 (a) to (e) below. Moreover, no environmental complaint in relation to the Site was received in the past three years. The applicant will be advised to adopt the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. Moreover, the technical requirements of D of FS could be addressed by approval conditions recommended in paragraph 13.2 (f) and (g) below.

- 12.3 The application generally complies with the TPG PG-No. 34C in that there are no adverse planning implications arising from the renewal of the planning approval as the temporary planning approval would not pre-empt the long-term development of the area. The last planning approval (Application No. A/YL-SK/238) for same applied use was granted in 2018 and all approval conditions have been complied with. The current application is the same as the previous application (No. A/YL-SK/238) in terms of the use, site area/ boundary, number of parking spaces and the maximum building height, except for a slightly increase in floor area. As there is no change in planning circumstances since the last approval and the applicant has complied with all approval conditions under the last approval, sympathetic consideration could be given for the current renewal application.
- 12.4 Regarding the public comment received during the statutory publication period, the departmental comments and planning considerations and assessment above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment in paragraph 11, the Planning Department considers that the temporary office with ancillary storage area and car parking could be tolerated for a period of 3 years.
- 13.2 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 and be renewed from 4.8.2021 until 3.8.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of fire services 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 4.2.2022;
- (g) in relation to (f) above, the implementation of 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 4.5.2022;
- (h) if any of the above planning condition (a), (b), (c), (d) or (e) 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
- (i) if any of the above planning condition (f) or (g) 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.

*[The above approval conditions are same as those under the last approved application No. A/YL-SK/238, except conditions (f) and (g) which are updated to reflect the latest departmental requirements.]*

#### Advisory clauses

The recommended advisory clauses are at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the 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 for a departure from the planning intentions, even on a temporary basis.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the renewal application.
- 14.2 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.
- 14.3 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.

#### **15. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 6.5.2021
<b>Appendix Ia</b>	Further information (FI) received on 23.6.2021
<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Layout Plan of upper deck
<b>Drawing A-3</b>	Layout Plan of lower deck
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2021**