

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/316

<u>Applicant</u>	: Dawn Group (HK) Limited
<u>Site</u>	: Lot 1286 RP (Part) in D.D. 114, Shek Kong, Yuen Long
<u>Site Area</u>	: About 1,080 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Proposed Temporary Shop and Services (Motor-vehicle Showroom) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (motor-vehicle showroom) for a period of 5 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, ‘Shop and Services’ is a Column 2 use within the “V” zone, and planning permission from the Town Planning Board (the Board) is required. The Site is currently hard-paved and occupied with vehicles, containers and auto parts (**Plans A-2 to A-4b**).
- 1.2 The Site is the subject of three previous applications for temporary shop and services and office, temporary public vehicle park, and storage of scrapped vehicles respectively. The last application (No. A/YL-SK/311) covering part of the Site submitted by a different applicant of the current application (**Plan A-1**) was rejected by the Rural and New Town Planning Committee (the Committee) on 9.7.2021.
- 1.3 According to the applicant, the Site will consist of three temporary 1-storey structures with a height of not more than 6.5m and a total floor area of 420m², which will be used for motor-vehicle showroom and toilet (**Drawing A-1**). Five car parking spaces for private vehicles will be provided on-site, 4 of which will be reserved for visitors with prior booking. The remaining one car parking space

is reserved for the staff. The Site is accessible directly from Kam Sheung Road. The operation hours will be from 9:00a.m. to 7:00p.m. Mondays to Sundays, including public holidays. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form with Attachment received on 7.9.2021 **(Appendix I)**
- (b) Further information (FI) received on 25.10.2021 **(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 proposed development will benefit the residents nearby by selling vehicles to them which is essential to villagers;
- (b) the proposed development is temporary in nature that would not jeopardize the planning intention of the “V” zone in the long term and is not incompatible with the surrounding environment; and
- (c) the proposed development would not generate significant impact to the surrounding environment. No traffic impact is anticipated. Drainage proposal has been submitted in support of the application. No workshop activity is proposed within the Site.

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 owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Applications

5.1 The Site is subject of three previous applications (Nos. A/YL-SK/169, 231 and 311) for temporary shop and services (horticulture and interior design sample showroom) and office; temporary public vehicle park (private car only); and temporary storage of scrapped vehicles uses respectively. Details of the

applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

- 5.2 Application No. A/YL-SK/169 for temporary shop and services (horticulture and interior design sample showroom) and office for a period of 3 years with a similar site area was approved with conditions by the Committee on 15.6.2012 mainly on the considerations that the applied development would not frustrate the long-term planning intention of the “V” zone; it was not incompatible with the surrounding areas; it would unlikely generate significant adverse environmental or traffic impacts; relevant Government departments had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval was revoked on 15.12.2012 due to non-compliance with approval conditions in relation to the submission of drainage and fire service installations (FSIs) proposals.
- 5.3 Application No. A/YL-SK/231 for proposed temporary public vehicle park (private car only) for a period of 5 years was approved with conditions by the Committee on 6.4.2018 mainly on the considerations as listed out in paragraph 5.2. However, the planning approval was revoked on 12.3.2020 due to non-compliance with approval conditions in relation to the prohibition of parking/storing vehicles without valid licences on the site, and the posting of a notice to indicate that only private cars are allowed to enter/be parked on the site.
- 5.4 Application No. A/YL-SK/311 for proposed temporary storage of scrapped vehicles, ancillary office and workshop for a period of 3 years with another land lot was rejected by the Committee on 9.7.2021 mainly on the considerations that the proposed use was not in line with the planning intention of the “V” zone; the application does not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F); the applicant failed to demonstrate that the development would not generate adverse environmental impacts to the surrounding areas; and approval of the application would set an undesirable precedent for similar applications within the “V” zone.

6. Similar Applications

- 6.1 There are two applications (Nos. A/YL-SK/284 and 298) for the same shop and services use (motor-vehicle showroom) within the same and adjoining “V” zones. Details of these similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 The above two applications for temporary shop and services uses (motor-vehicle showroom) for 3 and 5 years respectively were approved with conditions by the Committee between 2020 and 2021 on the similar considerations as stated in paragraph 5.2 above.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plans A-4a and A-4b)

- 7.1 The Site, which is currently hard-paved and occupied by vehicles, containers and auto parts, is accessible directly by Kam Sheung Road.
- 7.2 The surrounding areas are predominantly rural in character with mostly domestic dwellings/structures and a few car repair workshops and vacant land (**Plan A-2**):
- (a) to its east, north and west are the domestic cluster known as To Uk Tsuen. A car repair workshop is also currently operating at the immediate southwest of the Site;
 - (b) to its southeast across Kam Sheung Road is a vehicle repair workshop, proposed car audio shop with ancillary office (approved under Application No. A/YL-SK/308) and a piece of vacant land; and
 - (c) to its south and southwest across Kam Sheung Road are some domestic dwellings/structures intermixed with a motor-vehicle showroom (approved under Application No. A/YL-SK/298), a car repair workshop, and vacant land.

8. Planning Intention

The planning intention of the “V” zone is primarily 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 the 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 Houses. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) 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;

- (b) should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularise any irregularities on-site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above 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 rent or fee, as may be imposed by LandsD; and
- (c) there is no Small House application approved or currently under processing at the Site.

Traffic

9.1.2 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 LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 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;
- (b) the applicant should provide the run-in/out at Kam Sheung Road to the satisfaction of TD and HyD in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement; and
- (c) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department to minimise any potential environmental nuisances; and
- (b) there is no environmental complaint in relation to the Site received in the past three years.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in-principle to the proposed development and no adverse comment on the submitted drainage proposal;
- (b) should the application be approved, conditions should be stipulated in the approval letter requiring the applicant the implementation and maintenance of the agreed drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board; and
- (c) his detailed comments are at **Appendix V**.

Building Matters

9.1.6 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, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorised building works (UBW) under the Buildings Ordinance (BO). An Authorised Person should be appointed as the coordinator for the proposed building works in accordance with BO;
- (b) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be constructed as an acceptance of any existing building works or UBW on the Site under BO; and
- (c) his detailed comments are at **Appendix V**.

Fire Safety

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

- (a) he has no objection in principle to the application subject to FSIs being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should also be advised on the following points:
 - (i) the layout plan should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

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

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

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

10. Public Comments Received During Statutory Publication Period

On 14.9.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals (**Appendix IV**) were received. Both public comments object to the application mainly on the grounds that there is no demand for the proposed retail activities and the development would lead to

environmental pollution, fire safety hazard in the area and adversely affect the safety and quality of living of the villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (motor-vehicle showroom) for a period of 5 years at the Site zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). The “V” zone is primarily intended 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 zone is primarily intended for development of Small House development by indigenous villagers. Although the proposed use is not entirely in line with the planning intention of the “V” zone, DLO/YL of LandsD advises that there is no Small House application approved or currently under processing at the Site. Approval of the application on a temporary basis for a period of 5 years would not frustrate the long term planning intention of the “V” zone.
- 11.2 According to the applicant, the proposed shop and services use as motor-vehicle showroom is intended to serve the nearby local community. The proposed development comprising three 1-storey structures with a total floor area of 420m² is considered not incompatible with the surrounding land uses which are predominantly rural in character and mainly occupied by domestic dwellings/structures and a few car repair workshops (**Plan A-2**). Relevant Government departments consulted, including C for T, DEP, 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, environmental, drainage, landscape and fire safety aspects. It is anticipated that the proposed use would not generate significant adverse traffic, environmental, drainage, landscape and fire safety impacts on the surrounding areas. To minimise the possible environmental nuisance generated by the proposed use, an approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. The technical requirements of D of FS, CE/MN of DSD, C for T and CHE/NTW of HyD could be addressed by appropriate approval conditions in paragraphs 12.2 (b) to (i) below. Besides, the applicant will be advised to observe the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact.
- 11.3 There are two similar applications for the same proposed shop and services use within the same and adjoining “V” zone, which were approved by the Committee between 2020 and 2021. Besides, the Site is the subject of a previous application (No. A/YL-SK/169) for temporary shop and services for a period of 3 years, which was approved by the Committee in 2012. The Committee’s considerations on these three applications as stated in paragraphs 5 and 6 are generally applicable to the current application, and hence approval of this application is in line with the previous decisions of the Committee. As for the last previous application (No. A/YL-SK/311) submitted by a different applicant, the development was regarded as open storage use which is not similar to the proposed shop and services use under current application.
- 11.4 There are two public comments on the application as stated in paragraph 10. The planning assessments and departmental comments 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 in paragraph 10, 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 5 years until 29.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no 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;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of 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 29.4.2022;
- (e) in relation to (d) above, the implementation of fire service installations 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 29.7.2022;
- (f) the implementation of the submitted 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 29.7.2022;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of a run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 29.4.2022;
- (i) in relation of (h) above, the implementation of the run-in/out proposal within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 29.7.2022;
- (j) if any of the above planning conditions (a), (b), (c) or (g) 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

- (k) if any of the above planning conditions (d), (e), (f), (h) or (i) 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 at **Appendix V**.

- 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 primarily to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. No strong planning justification has been given in the submission for 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form received on 7.9.2021
Appendix Ia	Further information (FI) received on 25.10.2021
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4a and A-4b Site Photos

**PLANNING DEPARTMENT
OCTOBER 2021**