

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/328

<u>Applicant</u>	:	Mr. CHEUNG Chi Yuen Danny represented by Metro Planning & Development Company Limited
<u>Site</u>	:	Lot 878 (Part) in D.D. 114 and Adjoining Government Land, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	:	401m ² (about) (including about 110m ² of Government Land (27%))
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Shek Kong Outline Zoning Plan No. S/YL-SK/9
<u>Zoning</u>	:	“Residential (Group D)” (“R(D)”) [restricted to maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
<u>Application</u>	:	Temporary Shop and Services (Retail Shop for Hardware Groceries) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (retail shop for hardware groceries) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “R(D)” zone, and planning permission from the Town Planning Board (the Board) is required. The Site is currently used as shop and services (retail shop for hardware groceries) without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the site area is about 401m² (including Government land of about 110m²). One single storey structure (with building height of not more than 4m) and one two-storey structure (with building height of not more than 6m) are erected within the Site for shop and services, site office, cashier and toilet uses. The total non-domestic floor area is not more than 316m². The operation hours will be between 9 a.m. and 7 p.m. daily, including public holidays. The Site is directly accessible from Kam Sheung Road (**Plan A-2**). One light goods vehicle loading/unloading space is provided on-site. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of one previous application (No. A/YL-SK/248) for the same applied shop and services use (retail shop for hardware groceries) by the same applicant, which was approved by the Rural and New Town Planning Committee (the Committee) on 17.5.2019. The permission expired on 18.5.2022. Compared with the previous application, the current application involves a reduction in site area (reduced from the previous 460m² to the current 401m² site area) (**Plan A-2**). Details of the previous application are given in paragraph 5 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on (**Appendix I**) 19.4.2022
 - (b) Supplementary Information (SI) received on 26.4.2022 (**Appendix Ia**)
 - (c) Further Information (FI) received on 21.7.2022 (**Appendix Ib**)
[exempted from publication and recount requirements]
- 1.5 On 10.6.2022, the Committee agreed to defer making a decision on the application for two months as requested by the applicant. On 21.7.2022, FI (**Appendix Ia**) was received from the applicant and the application is submitted to the Committee for consideration at this meeting.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** respectively and summarized below:

- (a) the applied development will sell hardware groceries such as handy tools, screws, nails and bearings. It will benefit the nearby residents by catering to their demand for car accessories.
- (b) the applied development is a column 2 use in the “R(D)” zone. It is also applied for on a temporary basis for a period of 3 years and therefore will not jeopardize the planning intention of the “R(D)” zone;
- (c) the Site is subject to a previous planning application No. A/YL-SK/248, which was also for shop and services use. A fresh application (i.e. the current application No. A/YL-SK/328) is submitted for the consideration of the Board due to the change in site area and boundary in the northeastern part of the Site (**Plan A-2**);
- (d) the applied development is not incompatible with the surrounding environment. Similar applications for ‘Shop and Services’ within “R(D)” zone in rural areas such as planning application No. A/YL-SK/320 had been approved by the Board; and
- (e) there will be insignificant traffic, drainage and environmental impacts. The applied development will be housed within an enclosed structure and no operations will be held during sensitive hours.

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

The applicant is not a “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 taking reasonable steps to give notification to the owner including sending notice to the Pat Heung Rural Committee by registered mail and posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land, the “Owner’s Consent/Notification” Requirements as set out in TPB PG-No.31A are not applicable.

4. **Background**

The Site is not subject to any active enforcement action.

5. **Previous Application**

The Site is the subject of one previous application. Application No. A/YL-SK/248 for the same applied use by the same applicant for a period of 3 years was approved by the Committee on 17.5.2019 on the considerations that the development would not jeopardize the long-term planning intention of “R(D)” zone; it was not incompatible with the surrounding environment; and government departments consulted generally had no adverse comment on the application. Details of the previous application are summarized at **Appendix II** and the location is shown on **Plan A-2**.

6. **Similar Applications**

There are six similar applications (No. A/YL-SK/251, 270, 271, 296, 303 and 320) for various temporary shop and services uses within the same “R(D)” zone on the OZP (**Plan A-1**), which were approved with conditions by the Committee in the past three years on similar considerations as stated in paragraph 5 above. Details of the similar applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas (Plans A-2 to A-4)**

7.1 The Site is:

- (a) currently used as shop and services (retail shop for hardware groceries) without valid planning permission; and
- (b) directly accessible from Kam Sheung Road.

7.2 The surrounding areas predominantly rural in character intermixed mostly with domestic structures, shop and services use, restaurants, car park, Buddha hall, fallow/cultivated agricultural land, brassware manufactory, open storage/storage yard, workshop and vacant/unused land (**Plans A-2 and A-3**):

- (a) to its east, west and south in the same “R(D)” zone are domestic structures, shop and services uses (including a real estate agency, and those with valid planning permissions under applications A/YL-SK/296 and 320 for temporary eating place and shop and services, and a temporary shop for selling vehicle spare parts respectively), restaurants, open storage/storage yard and vacant land;
- (b) to its further south across the nullah in the same “R(D)” zone and adjacent “Agriculture”(“AGR”) zone are domestic structures, workshop and vacant land; and
- (c) to its north across Kam Sheung Road in the “Village Type Development” (“V”) zone are mainly domestic structures, Buddha hall, car park, fallow/cultivated agricultural land, brassware manufactory and vacant/unused land.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

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

The application was published for public inspection on 29.4.2022. During the statutory public inspection period, 2 public comments were received from two individuals (**Appendices V-1 and V-2**). They raise objection to/concerns about the application mainly on the grounds that the proposed development will result in adverse environmental impacts and fire safety concerns, thereby affecting the living quality and safety of the local community.

11. Planning Considerations and Assessments

11.1 The application is for temporary shop and services (retail shop for hardware groceries) at the Site for a period of 3 years. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. While the applied use is not entirely in line with the planning intention of the “R(D)” zone, there is no known

proposal for permanent development at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long term planning intention of the “R(D)” zone.

- 11.2 According to the applicant, the temporary shop and services (retail shop for hardware groceries) is to cater for the demand of nearby residents. The development comprising a maximum of 2 storeys (with building height of not more than 6m) with a total floor area of not more than 316m² is considered not incompatible with the surrounding land uses which are predominantly rural in character intermixed mostly with domestic structures, shop and services use, fallow/cultivated agricultural land and vacant/unused land (**Plan A-2**). Relevant government departments consulted, including C for T, D of FS, CE/MN of DSD, DEP and CTP/UD&L of PlanD have no objection to/no adverse comment on the application. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and fire safety impacts on the surrounding areas. The technical requirements of C for T, D of FS and CE/MN of DSD could be addressed by approval conditions in paragraphs 12.2 (a) to (e). 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 The Site is involved in one previous application (no. A/YL-SK/248) for the same applied use by the same applicant approved with conditions by the Committee in 2019 as detailed in paragraph 5 above. All planning approval conditions had been complied with. In addition, there are six similar applications for various temporary shop and services uses within the same “R(D)” zone, which were approved with conditions by the Committee between 2019 and 2021. The Committee’s considerations as stated in paragraphs 5 and 6 are generally applicable to the current application, and approval of this application is in line with the previous decisions of the Committee.
- 11.4 Regarding the two public comments received during the statutory publication period, the departmental comments and the planning considerations and 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, 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 three years until 9.9.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (b) 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 **9.3.2023**;
- (c) in relation to (b) 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 **9.6.2023**;
- (d) the submission of a condition record of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.12.2022**;
- (e) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) if any of the above planning conditions (a) 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
- (g) if any of the above planning conditions (b), (c) 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 at **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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. 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 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 19.4.2022
Appendix Ia	SI received on 26.4.2022
Appendix Ib	FI received on 21.7.2022
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendices V-1 and V-2	Public comments
Drawing A-1	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**