

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/351

<u>Applicant</u>	:	Wong Kam Wah represented by Metro Planning & Development Company Limited
<u>Site</u>	:	Lot 1370 RP (Part) in D.D. 112, Shui Tsan Tin, Shek Kong, Yuen Long, New Territories
<u>Site Area</u>	:	171m ² (about)
<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>	:	Temporary Shop and Services 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 for a period of 3 years. The Site falls within an area zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is partly occupied with two container-converted structures for shop and services use, fenced off and partly covered with weeds (**Plans A-3 and A-4**).
- 1.2 According to the applicant, the site area is about 171m². One single-storey structure (with building height of not more than 3.5m) will be erected within the Site for shop and services use, selling grocery to serve the nearby community. The total non-domestic floor area is not more than 60m². The operation hours will be from 9 a.m. to 9 p.m. daily, including public holidays. Two private car parking spaces will be provided on-site. The Site is accessible from Kam Sheung Road via a local track (**Plans A-1 and A-2**). The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of a previous application (No. A/YL-SK/319) for the applied shop and services use and land filling, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 24.12.2021 (**Plan A-1**). 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**)
27.7.2023
 - (b) Further Information (FI) received on 11.9.2023 (**Appendix Ia**)
 - (c) FI received on 1.11.2023* (**Appendix Ib**)
* *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 and FIs at **Appendices I to Ib** and summarized below:

- (a) The proposed development is intended to serve nearby residents.
- (b) The application is temporary in nature and would not jeopardize the long-term planning intention of the “V” zone.
- (c) The proposed development is not incompatible with the surrounding environment. Previous application for ‘Shop and Services’ had been approved by the Board.
- (d) There will be insignificant traffic, drainage and environmental impacts.

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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notification letter to relevant 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 Application

The Site involves a previous application (No. A/YL-SK/319) for proposed temporary shop and services for a real estate agency for a period of 5 years and land filling with two single-storey structures, which was approved with conditions by the Committee on 24.12.2021, mainly on the grounds that the temporary approval would not frustrate the long-term planning intention of the “V” zone; the proposed use was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions. However, most of the approval conditions have yet to be complied with. Details of the previous application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Applications

There are two similar applications (No. A/YL-SK/252 and 333) for temporary shop and services use within the same “V” zone on the OZP (**Plan A-1**), which were approved with conditions by the Committee on 3.5.2019 and 15.7.2022 respectively on similar considerations as stated in paragraph 5. 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-1 to A-4)

7.1 The Site is:

- (a) partly occupied with two container converted structures, fenced off and partly covered with grass; and
- (b) accessible from Kam Sheung Road via a local track on the northwest.

7.2 The surrounding areas are predominantly rural in character with some village houses, domestic dwellings/structures, fallow agricultural land, car parks, plant nursery, hobby farm and vacant/unused land (**Plans A-2 and A-3**).

8. Planning Intention

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. 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 floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to 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 and FI were published for public inspections on 27.7.2023 and 11.9.2023. During the statutory public inspection periods, 32 public comments with 31 in the form of standard letters from villagers and indigenous inhabitant representative of Shui Tsan Tin Tsuen and one from an individual (**Appendices V-1 to V-32**). They raise objection to/concerns about the application mainly on the grounds that the applied use will result in adverse traffic and fung shui impacts.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of 3 years at the Site zoned “V”. The “V” zone is primarily intended 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. Land within this zone is primarily intended for development of Small House development, selected commercial and community uses serving the needs of the villagers and in support of the village development are permitted on the ground floor of New Territories Exempted Houses. Although the applied use is not entirely in line with the planning intention of “V” zone, it can provide shop and services use selling grocery to local community and there is currently no Small House application under processing at the Site. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The applied use is considered not incompatible with the surrounding land uses which are predominantly rural in character with some village houses, domestic dwellings/structures, fallow agricultural land, car parks, plant nursery, hobby farm and vacant/unused land (**Plan A-2**).
- 11.3 Relevant government departments consulted, including C for T, DEP, CE/MN of DSD and D of FS have no objection to/ no adverse comment on the application. It is anticipated that the applied use would not have significant adverse traffic, environmental, drainage and fire safety impacts on the surrounding areas. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (b) 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” issued by DEP in order to alleviate any potential environmental impact.
- 11.4 The Site was involved in a previous application (No. A/YL-SK/319) for proposed temporary shop and services for a period of 5 years and land filling, which was approved with conditions by the Committee in 2021. In addition, there are two

similar applications (No. A/YL-SK/252 and 333) for temporary shop and services use within the same “V” zone which were approved with conditions by the Committee in 2019 and 2022 respectively. 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.

- 11.5 Regarding the 32 public comments received during the statutory publication periods, 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 3 years until 10.11.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the implementation of the accepted 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 **10.8.2024**;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **10.5.2024**;
- (d) 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 **10.8.2024**;
- (e) if the above planning condition (b) 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), (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 applied use 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 re-provisioning of village houses affected by Government projects. No strong planning justification has been given in the submission to justify 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with attachments received on 27.7.2023
Appendix Ia	FI received on 11.9.2023
Appendix Ib	FI received on 1.11.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-32	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