

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/585

<u>Applicant</u>	: Mr. HO Chung Pong represented by Mr. KWOK Chi Man
<u>Site</u>	: Lot 219 RP (Part) in D.D.102, San Tin, Yuen Long
<u>Site Area</u>	: About 270 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Shop and Services (Real Estate and Travel Service Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (real estate and travel service agency) for a period of 3 years (**Plan A-1**). According to the Notes for the “V” zone of the approved San Tin OZP No. S/YL-ST/8, ‘Shop and Services’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by 2 container-converted structures for site office use (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed shop and services use will provide real estate and travel agency services to the local community. As shown on the layout plan at **Drawing A-1** submitted by the applicant and **Plan A-2**, the Site is accessible via a 6m-wide run-in/out from Castle Peak Road – San Tin. The proposed development comprises 3 single-storey (3m high) structures with a total floor area of 114.86m², including 2 container-converted structures for real estate and travel service agency and one proposed metal shed for sunshade purpose. One light goods vehicle (LGV) parking space will be provided within the Site. The operation hours are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays (closed on Sundays and public holidays).

- 1.3 The Application Form received from the applicant on 22.2.2021, and letters dated 22.2.2021 and 23.2.2021 from the applicant providing supplementary information on the operation of the proposed development and revised drawings in support of the application are at **Appendix I**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and supplementary information at **Appendix I**. They can be summarised as follows:

- (a) The proposed shop and services use is a small scale business operated by local villager with only 2-3 staff members. The travel service agency will offer telephone or on-line booking and customer enquiries services. The Site will not be used as a gathering place for tours and no catering services will be provided. No warehouse or open storage use will be involved.
- (b) The proposed development is not incompatible with the planning intention of the “V” zone and the surrounding rural land use. Its temporary nature and the proposed simple structures will enable easy reinstatement of the Site and will not jeopardise the long term development of the “V” zone.
- (c) The vehicular access within the Site will be concreted over, maintained and managed by the applicant. Public transport is available in the vicinity and most of its customers will access the Site on foot. Only 1 LGV parking space will be provided within the Site. LGV will be used for delivery of tables/chairs and property sale materials for outdoor promotion at non-peak hours on a bi-weekly basis. No visitor parking space will be provided within the Site. Significant traffic generation from the Site and adverse traffic impact are not expected and road safety of the area will not be affected.
- (d) The applicant will follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise potential environmental impacts on the surrounding area. The applicant will also clean and dispose the garbage from the proposed development to ensure environmental hygiene.

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

The applicant is not the “current land owner” of the Site and 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 posting site notice and sending notice to San Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any planning enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 During the past 10 years, there are 9 similar applications covering 7 application sites within the same “V” zone (**Plan A-1**).
- 6.2 Of which, 6 applications (No. A/YL-ST/412, 458, 488, 521, 556 and 574) were approved by the Rural and New Town Planning Committee (the Committee) of the Board, mainly on the considerations that the proposed developments were considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone.
- 6.3 The remaining 3 applications (Applications No. A/YL-ST/428, 431 and 505) were rejected by the Committee for the reasons that the developments were not in line with the planning intention of the “V” zone (for Applications No. A/YL-ST/428, 431 and 505), not complying with the then TPB Guidelines No. 13E (for Applications No. A/YL-ST/428 and 431 as these applications were akin to open storage uses) and the applicant failed to demonstrate that the proposed development would not have any adverse impact on pedestrian traffic in the area (for Application No. A/YL-ST/505).
- 6.4 Details of these applications are summarised at **Appendix II**.

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

- 7.1 The Site is:
 - (a) accessible from Castle Peak Road – San Tin from its north; and
 - (b) paved and currently occupied by 2 single-storey container-converted structures for site office use.
- 7.2 The surrounding areas are rural in character intermixed with village houses, institutional facilities, vehicle parks, shops, restaurant, school, open space and storage/open storage/workshop uses (**Plans A-1 and A-2**):
 - (a) to the south and east of the Site are residential dwellings (some with storage use), vehicle parks, the San Tin Heung Rural Committee building, and open storage yard and workshop which are suspected unauthorised developments (UDs);

- (b) to the north and northeast of Site are Tung Shan Temple, restaurant, San Tin Post Office, a church premises with approval (Application No. A/YL-ST/560), vehicle parks and storage areas; and
- (c) to the immediate west of the Site is a vehicle park and Kwu Tung Road. Further west of Kwu Tung Road is a petrol filling station, Man Tin Cheung Park and unused land, whereas further northwest across Castle Peak Road – San Tin is Tun Yu School and a football court.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. 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 (NTEH). 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, LandsD (DLO/YL, LandsD):
- (a) The Site comprises an Old Schedule Agricultural Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) No Small House application has been approved or is being processed in respect of the Site.
 - (c) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularity on the 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. Such applications will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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.

Traffic

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

Should the application be approved, condition should be incorporated into the planning permission such that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site from Castle Peak Road – San Tin should be approved by the Transport Department (TD).
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – San Tin.
- (c) If the proposed run-in/out is agreed by TD, the applicant should provide the run-in/out at Castle Peak Road – San Tin 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.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

As the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems, he has no comment on the application from railway development point of view.

Environment

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

The applicant is advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise potential environmental impacts on the surrounding areas.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations (FSIs) being provided to the satisfaction of D of FS.
- (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 that (i) the layout plans 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. Details of his comments are at **Appendix IV**.

Drainage

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The applicant shall submit a drainage proposal to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to the Site, as per his detailed comments at **Appendix IV**. The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on the Site.
- (c) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (d) No public sewerage maintained by CE/MN, DSD is currently available for the connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (e) The applicant is reminded that the proposed drainage works as well as the site boundary should not cause encroachment upon areas outside his jurisdiction.
- (f) The applicant should consult DLO/YL, LandsD regarding all the

proposed drainage works outside the site boundary in order to ensure unobstructed discharge from the Site in future.

- (g) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on site under proper maintenance during occupancy of the Site.

Landscaping

- 9.1.8 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

With reference to the aerial photo of 2020 and the site photos taken on 2.3.2021, the Site is fully hard paved with some existing temporary structures. There is no tree observed within the site boundary. As the Site is not located in landscape sensitive zoning and there is no significant landscape resources within the Site, no significant landscape impact is envisaged. As no significant adverse landscape impact arising from the proposed development is envisaged and there is no prominent public frontage around the Site, it is considered not necessary to impose any landscape condition should the application be approved by the Board.

Water Supplies

- 9.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains within the Site will be affected (**Plan A-2**). The cost of any necessary diversion shall be borne by the applicant.
- (c) In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centre line of the water mains shall be provided to WSD. No structure shall be built or materials shall be stored within this waterworks reserve. Free access shall be made available at all times for WSD and their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (d) No trees or shrubs with penetrating roots may be planted within the waterworks reserve or in the vicinity of the water mains shown on **Plan A-2**.
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

Building Matters

9.1.10 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 co-ordinator 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 construed as an acceptance of any existing building works or UBW on the Site under BO.
- (c) Any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings and are subject to the control of Part VII of the Building (Planning) Regulations. Detailed checking under the BO will be carried out at the building plan submission stage.
- (d) Details of his comments are at **Appendix IV**.

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

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Commissioner of Police;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) District Officer (Yuen Long).

10. Public Comment Received During Statutory Publication Period

On 2.3.2021, the application was published for public comments. During the first 3 weeks of the statutory publication period, 1 public comment was received from an individual objecting to the application mainly on the grounds that the proposed development is located in a dense area, the proposed commercial activities will induce pollution, fire risk and affect the safety and living environment of the villagers (**Appendix III**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (real estate and travel service agency) for a period of 3 years within “V” zone. The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Commercial, community and recreational uses may be permitted on application to the Board. According to DLO/YL, LandsD, there is no Small House application being processed/approved 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 nature of the proposed shop and service use is considered not incompatible with the planning intention of the “V” zone as it could provide real estate and travel service agency services to the local community. Moreover, the proposed development, with 3 single-storey structures of 3m high, is small in scale. It is not incompatible with the surrounding rural land uses intermixed with village houses, institutional facilities, shops, restaurant, school, open space and vehicle parks.
- 11.3 Relevant government departments including C for T, CHE/NTW of HyD, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to the application. Adverse impacts on traffic, environment, fire safety, drainage and landscape aspects are not envisaged. To mitigate the potential environmental impacts on the surrounding area, approval conditions restricting the operation hours and the activities/use of the Site are recommended in paragraphs 13.2 (a) to (c) below. Besides, the applicant should be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Technical requirements of C for T, CHE/NTW of HyD, D of FS and CE/MN of DSD are imposed through approval conditions in paragraphs 13.2 (d) to (k) below.
- 11.4 Since 2011, the Committee has approved 6 similar applications for temporary shop and services use within the same “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 There is 1 public comment objecting to the application as stated in paragraph 10. The planning assessment and departmental comments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment 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 up to

16.4.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00p.m. and 9:00a.m. from Monday to Saturday, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no catering services, warehouse or open storage use, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of 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 16.10.2021;
- (f) in relation to (e) above, the implementation of 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 16.1.2022;
- (g) the submission of 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 16.10.2021;
- (h) in relation to (g) above, 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 16.1.2022;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (j) 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 16.10.2021;
- (k) in relation to (j) 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 16.1.2022;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (i) 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

- (m) if any of the above planning conditions (e), (f), (g), (h), (j) or (k) 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 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 "V" zone, which is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within "V" 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 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 received on 22.2.2021 and the applicant's letters dated 22.2.2021 and 23.2.2021
Appendix II	Similar s.16 applications within the Same "V" Zone on the Approved San Tin Outline Zoning Plan No. S/YL-ST/8
Appendix III	Public Comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos