

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/593

<u>Applicant</u>	: Mr. WONG Yu Hong
<u>Site</u>	: Lots 199 (Part) and 200 in D.D. 96, San Tin, Yuen Long
<u>Site Area</u>	: About 1,546 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 for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary shop and services 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 vacant.
- 1.2 According to the applicant, the proposed shop and services use is a convenience store providing daily necessities and food products to the local community. As shown on the layout plan at **Drawing A-1** and **Plans A-1 and A-2**, the Site is accessible via a local access off Chau Tau West Road connecting to Lok Ma Chau Road. The proposed development has a total gross floor area (GFA) of 501.6m². It comprises a 2-storey (about 8.5m high; GFA of 445.77 m²) metal structure for convenience store and 3 one-storey (about 2.6m high; GFA of 55.83 m²) container-converted mini-shops for selling various retail items such as bicycle accessories/parts, fruits, florist, snacks, drinks, frozen food, pet supplies and daily goods. Two light goods vehicle (LGV) parking spaces will be provided within the Site. The operation hours are from 9:00 a.m. to 7:00 p.m. daily including public holidays.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 29.6.2021 and replacement pages with supplementary drawings received on 2.7.2021 **(Appendix I)**
- (b) Further Information (FI) received on 26.10.2021 and 3.11.2021 providing responses to departmental comments and a revised site layout plan [#] **(Appendix Ia)**
- (c) FI received on 10.12.2021 providing clarification of the proposed development and amended section plan [@] **(Appendix Ib)**

[#] *not exempted from the publication requirement*

[@] *exempted from the publication requirement*

- 1.4 On 27.8.2021, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer a decision on the application for a period of two months as requested by the applicant to allow time for the applicant to address departmental comments. The applicant subsequently submitted FI as detailed in paragraph 1.3 above. The application is scheduled for consideration by the Committee 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 to Ib**. They can be summarised as follows:

- (a) The proposed shop and services use is a small scale business operated by local villager with about 6 staff members to serve local residents. There will not be any food catering/cooking business at the Site.
- (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) To address the comments of the Head of Geotechnical Engineering Office (H(GEO)), the proposed retail store originally located in the eastern part of the Site (**Appendix I**) is relocated to the western part of the Site with corresponding reduction of the number of mini-stores (from 8 to 3) (**Drawing A-1**).
- (d) The proposed use mainly serves local residents who will access the Site on foot or by bicycle. The staff members will use goods vans for delivery and replenishment of goods and to go to/off work, which will generate about 12 trips per day. Two LGV parking spaces will be provided within the Site and a 9m-diameter manoeuvring circle is proposed near the ingress/egress (5m in width) at the southeastern part of the Site which is adequate for vehicular manoeuvring including emergency vehicles to avoid queuing back of vehicles on public road. There are only limited vehicular trips to the Site and no visitor parking space will be provided. No medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailers/tractors as defined in the Road Traffic Ordinance is

allowed to be parked/stored on the Site. Therefore, adverse traffic impact on the surrounding road network is not expected.

- (e) 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. No night time illumination or neon signboards will be installed and no loudspeaker or public announcement system will be used on the Site. 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. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)

According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

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

6. Previous Application

There is no previous application covering the Site.

7. Similar Applications

There is no similar planning application for shop and services use in the same “V” zone

covering Pun Uk Tsuen and Chau Tau Tsuen.

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

8.1 The Site is:

- (a) accessible from its southeast via a local track off Chau Tau West Road connecting to Lok Ma Chau Road; and
- (b) currently vacant.

8.2 The surrounding areas are rural in character with mainly village houses and vacant/unused land (**Plans A-1 and A-2**):

- (a) to its immediate west are the village proper of Pun Uk Tsuen;
- (b) to its immediate south, east and north are vacant land and to its further north is woodland area in the “V” zone and the “Green Belt” zone; and
- (c) to its southeast are a few village houses and to its further southeast across Chau Tau West Road is the village proper of Chau Tau Tsuen.

9. 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.

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, LandsD (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots 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

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

- (a) The Site is connected to Chau Tau West Road via a local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Having considered the application including the FI provided by the applicant, he has no adverse comment on the application from the traffic engineering perspective. Should the application be approved, a condition should be incorporated that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Chau Tau West Road should be approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Chau Tau West Road.
- (c) 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):

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” to minimise potential environmental impacts on the surrounding areas.

Geotechnical Aspect

10.1.5 Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (CEDD)

- (a) The Site is adjacent to a natural drainage course that is within a catchment with a past landslide of long debris runout. As such, the Site may be affected by natural terrain hazards and a Natural Terrain Hazard Study (NTHS) is required as part of the proposed development. The applicant is required to submit a Geotechnical Planning Review Report (GPRR) according to the requirements in the GEO Advice Note in support of the application.
- (b) Given the temporary nature of the proposed development, the requirement for a NTHS may make the case not economically viable. As an alternative, the proposed 2-storey structure for convenience store should be located away from the eastern part of the Site. With the adjustment of the layout of the proposed development, the requirement for a NTHS may be waived.
- (c) It is noted that the applicant has revised the site layout as shown in **Drawing A-1 (Appendix Ia)** in that the proposed 2-storey structure has been relocated to the western part of the Site. Therefore, he has no further comment on the application. The GPRR and NTHS are considered not required.

Fire Safety

10.1.6 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) FSIs are anticipated to be required in consideration of the design/ nature of the proposal. 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, and the location of the proposed FSI 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.

Drainage

10.1.7 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. The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on the Site.
- (c) 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.
- (d) His detailed comments are at **Appendix III**.

Landscaping

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

With reference to the site photos taken on 6.8.2021, the Site is fully paved by asphalt. There is no tree observed within the Site. 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 the Site is not located at landscape sensitive zone 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

10.1.9 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. 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**.
- (c) His detailed comments are at **Appendix III**.

Building Matters

10.1.10 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. Details of his comments are at **Appendix III**.

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

- (a) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Commissioner of Police;
- (d) Project Manager (West), CEDD; and
- (e) District Officer (Yuen Long).

11. Public Comments Received During Statutory Publication Period

On 6.7.2021 and 12.11.2021, the application and FI were published for public comments. During the statutory publication periods, a total of eight public comments were received from two managers of Man Yin Cho of Chau Tau Tsuen (including 144 villagers' signatures), villagers and residents of Chau Tau Tsuen and Pun Uk Tsuen and individuals. They raised objection to the proposed use on the grounds that it will adversely affect the village environment such as oily fume and odour emissions; increase traffic flow, drainage hazard, flooding, fire risk and environmental pollution which will worsen road safety, environmental hygiene and livelihood of the villagers; the scale of the proposed development is large; it will affect the fung shui of the village; and the Site has been substantially cleared for the proposed use (**Appendix II**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services 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. 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 Town Planning Board. According to DLO/YL, LandsD, there is no Small House application being processed/approved at the Site. While the shop and services use serving local needs is always permitted on the ground floor of a NTEH within the “V” zone and a temporary approval for such use at the Site may not jeopardize the long-term planning intention of the “V” zone, consideration should be given to whether the scale of the proposed shop and services is justified in serving the daily needs of the local residents. As compared with local scale retail shop commonly found on the G/F of a NTEH, the proposed development, which involves a site area of 1,546m² and 4 new standalone structures with a commercial GFA of 501.6m², is considered excessive within the “V” zone. There is no strong justification to provide commercial use of such scale in the village setting with a tranquil rural environment, which comprises the village proper of Pun Uk Tsuen to the immediate west and the village proper of Chau Tau Tsuen to the southeast.
- 12.2 Although the Site falls within WBA under TPB PG-No. 12C, the guidelines also specifies that temporary uses are exempted from the requirement of EcoIA. In this regard, DAFC has no comment on the application from nature conservation perspective.
- 12.3 Relevant government departments including C for T, DEP, H(GEO), D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or no adverse impacts on the application. Adverse impacts on traffic, environmental, fire safety, drainage and landscape aspects are not envisaged. Should the application be approved, technical requirements of C for T, H(GEO), D of FS and CE/MN of DSD are suggested as approval conditions in paragraph 13.2 below. Besides, the applicant will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to mitigate any potential environmental impacts on the surrounding areas.
- 12.4 There are neither previous application at the Site nor similar applications for shop and services use in the same “V” zone.
- 12.5 There are eight public comments raising concerns on the application as stated in paragraph 10. The planning considerations and departmental comments 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 comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:

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. The scale of the proposed commercial development is considered excessive in serving the local needs and is not compatible with the developments in the surrounding areas. No strong planning justification has been given in the submission to justify the proposed scale and operation of the commercial development in the “V” zone and thus a departure from the planning intention, even on a temporary basis.

- 13.2 Alternatively, should the Committee decide to approve the application, the permission shall be valid on a temporary basis for a period of 3 years up to 24.12.2024. 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) no building structure within the development should be provided in the eastern part of the Site as shown in the submitted layout, as proposed by the applicant;
- (c) no medium or heavy goods vehicle (i.e. exceeding 5.5 tonnes) including container trailers/tractors as defined in the Road Traffic Ordinance is allowed to be parked/stored on the Site, as proposed by the applicant;
- (d) 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 **24.6.2022**;
- (e) in relation to (d) 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 **24.9.2022**;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) 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 **24.6.2022**;
- (h) in relation to (g) 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 **24.9.2022**;

- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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 III**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 29.6.2021 and replacement pages and supplementary drawings received on 2.7.2021
Appendix Ia	FI received on 26.10.2021 and 3.11.2021
Appendix Ib	FI received on 10.12.2021
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Section Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos