

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/659

<u>Applicant</u>	: Mr. HO Ka Long represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	: Lots 3049 RP (Part) and 3050 RP (Part) in D.D.102 and Adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: About 1,517m ² (including about 1,056m ² of GL (about 69.6%))
<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>	: Temporary Shop and Services (Retail Shops and Convenience Store) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services (retail shops and convenience store) for a period of three years at the application site (the Site), which falls within an area zoned “V” on the approved San Tin OZP (**Plan A-1a**). According to the Note of the OZP for “V” zone, ‘Shop and Services’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Site is largely paved and is currently used for the applied use without valid planning permission.
- 1.2 The applied use involves four structures (2m to 4.8m in height) for shop and services, meter room, fire services water tank, and a CCTV room and staff office with a gross floor area (GFA) of about 159m², as well as nine parking spaces for private cars and two loading/unloading spaces for light goods vehicles (**Drawing A-1**). All the existing 30 trees within the Site will be maintained. The Site is accessible via an 8m-wide run-in/out from the north off Tung Wing On Road leading to Castle Peak Road – San Tin. The operation hours are between 8:00 a.m. and 8:00 p.m. from Monday to Sunday including public holidays. According to the applicant, the applied use is to serve the local community in the surrounding area by providing daily necessities.

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

- (a) Application form with attachments received on 28.8.2023 and supplementary information (SI) received on 4.9.2023 (Appendix I)
 - (b) Further Information (FI) received on 11.9.2023 [#] (Appendix Ia)
 - (c) FI received on 5.12.2023 [#] (Appendix Ib)
 - (d) FI received on 4.1.2024 [#] (Appendix Ic)
- [#] *exempted from publication requirement*

1.4 On 27.10.2023, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer a decision on the application for two months.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SI and FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) The shop and services use is temporary in nature. Neon lights signboard will not be installed and there would not be any noise disturbance from the applied use at night. It would not cause significant adverse environmental, noise and visual impacts on the surrounding area and neighbourhood.
- (b) The shop and services use, which provides daily necessities to meet the demand of the residents in the surrounding neighbourhood, is small in scale and is in line with the planning intention of the "V" zone and compatible with the surrounding areas.
- (c) In support of the current application, the applicant has submitted a fire services installations (FSIs) proposal at **Appendix Ib** and committed to implement the FSI proposal. Besides, the existing trees and drainage facilities implemented under previous application will continue to be maintained.

3. **Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is not the "current land owner" of the private lots within the Site 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 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. For GL, the "owner's consent/notification" requirements are not applicable.

4. **Town Planning Board Guidelines**

The Site is located at the fringe of the Wetland Buffer Area (WBA) in Deep Bay Area (**Plan A-1a**). The Town Planning Board Guidelines for "Application for Developments

within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site (in whole or in part) is involved in 18 previous applications, of which 9 were approved and 9 were rejected by the Committee (**Plan A-1b**).
- 6.2 The last three applications (No. A/YL-ST/488, 521 and 574) submitted by a different applicant for similar shop and services use were approved by the Committee between 2016 and 2020 each for a period of 3 years mainly on the considerations that the proposed development was considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone. Application No. A/YL-ST/488 was revoked on 26.11.2017 due to non-compliance with conditions on the submission and implementation of FSIs proposal and drainage proposal and the implementation of landscape and tree preservation proposal. The remaining two applications (No. A/YL-ST/521 and 574) were revoked on 26.6.2020 and 4.5.2023 due to non-compliance with condition on the implementation of FSIs proposal.
- 6.3 The remaining six approved applications (No. A/YL-ST/57, 104, 288, 317, 343 and 391) mainly for container trailer/tractor park/public vehicle park (excluding container vehicle) and nine rejected applications (No. A/YL-ST/16, 34, 41, 126, 153, 203, 222, 270 and 307) mainly for temporary container vehicle/trailer park and vehicle repair workshop/public car park are not relevant to the current application.
- 6.4 Details of these applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 During the past five years, there were four similar applications covering three sites for shop and services use within the same “V” zone which were approved with conditions by the Committee 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.
- 7.2 Details of these applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) currently used for the applied use without valid planning permission;
- (b) accessible from the north off Tung Wing On Road leading to Castle Peak Road – San Tin;
- (c) located within the WBA of Deep Bay area.

8.2 The surrounding areas are intermixed with village houses, car parks, shops, restaurants, temporary site office, the Construction Industry Council San Tin Training Ground and vacant land.

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized 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

All 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 IV and V** respectively.

11. Public Comments Received During Statutory Publication Period

On 5.9.2023, the application was published for public comments. During the statutory publication period, one public comment was received from an individual objecting to the application mainly on the grounds that the approval conditions of the previous planning application were not fulfilled and permission revoked, and fire prevention measures in a village environment should be considered (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for temporary shop and services (retail shops and convenient store) 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. Although the applied use is not entirely in line with the planning intention of the “V” zone, it could meet the local demand for daily necessities from the surrounding neighbourhood. District Lands Officer/Yuen Long, Lands Department has no adverse comment on the application and advises that there is no Small House application being processed/approved at the Site. The applied use is temporary in nature which would not adversely affect the land availability for village type development within the “V” zone in the long term. In this regard, approval of the application on a temporary basis for three years would not jeopardise the long term planning intention of the “V” zone.

- 12.2 In view of the scale and nature of the shop and services use to serve the local neighbourhood, the applied use is considered not incompatible with the surrounding land uses which are intermixed with village houses, car parks, shops and restaurants.
- 12.3 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of an ecological impact assessment. Director of Agriculture, Fisheries and Conservation has no strong view on the application from nature conservation point of view.
- 12.4 Concerned government departments, including the Director of Environmental Protection, Commissioner for Transport, Director of Fire Services (D of FS), Chief Town Planner/Urban Design and Landscape, Planning Department and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) have no objection to or no adverse comment on environmental, traffic, fire safety, landscape and drainage aspects respectively. Should the application be approved, technical requirements of CE/MN, DSD and D of FS are suggested to be imposed through approval conditions as recommended in paragraph 13.2 below.
- 12.5 As detailed in paragraphs 6 and 7 above, the Site is the subject of three previous approvals for similar shop and services use submitted by a different applicant and four similar applications for shop and services use within the same “V” zone. Although the three previous approvals at the Site were subsequently revoked due to non-compliance with time-limited approval conditions, the current application is submitted by a different applicant with the FSI proposal already accepted by the D of FS. Besides, the applicant committed to implement the accepted FSI proposal and maintain the existing drainage facilities at the Site. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comment objecting to the application as stated in paragraph 11, the departmental comments and planning considerations and assessments 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 comment mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 26.1.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle is allowed to queue back or to reverse onto/from public road at any time during the planning approval period;
- (b) the submission of records of the existing drainage facilities on the site 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 26.4.2024;
- (c) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 26.10.2024;
- (e) if any of the above planning condition (a) or (c) 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 conditions (b) 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 attached at **Appendix V**.

- 13.3 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 primarily intended for development of NTEHs/Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify the applied use for a departure from the planning intention, even on a temporary basis.

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 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 28.8.2023 and SI received on 4.9.2023
Appendix Ia	FI received on 11.9.2023
Appendix Ib	FI received on 5.12.2023
Appendix Ic	FI received on 4.1.2024
Appendix II	Relevant Extracts of TPB PG-No. 12C
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**