

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/517

<u>Applicant</u>	: Mr. LAM Sun Tak
<u>Site</u>	: Lots 4891 RP (Part) , 4892 S.A, 4892 RP (Part) and 4893 (Part) in D.D. 116 and Adjoining Government Land (GL), Tai Tong Road, Yuen Long, New Territories
<u>Site Area</u>	: 502 m ² (about) (including GL of about 52m ² (about 10.4%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17
<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 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site involves four previous applications for temporary vehicles trading or shop and services uses. The last application (No. A/YL-TT/418) for the same use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 12.1.2018. All the time-limited approval conditions under the last application had been complied with and the permission lapsed on 13.1.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with similar site layout and development parameters.
- 1.3 According to the applicant, the proposal is for a real estate agency mainly to serve the nearby residents. Only private cars will be allowed to access the Site. Plan showing the site layout with fire service installations (FSIs) proposal submitted by the applicant is at **Drawing A-1**.

- 1.4 The major development parameters of the current application are largely the same as the previously approved application No. A/YL-TYST/418, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/418 (a)	Current Application No. A/YL-TT/517 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services for a Period of 3 Years		---
Site Area	About 502 m ² (including GL of about 52m ²)		---
Total Floor Area (Non-domestic)	About 73.2 m ²		---
No. and Height of Structures	5 <ul style="list-style-type: none"> • two for site office (2.5m, 1 storey) • two for shelter (2.5m, 1 storey) • one for toilet (2.5m, 1 storey) 	1 <ul style="list-style-type: none"> • for site office, meeting room, storage and toilet (2.5m, 1 storey) 	-4 (- 80%)
No. of Parking Spaces	14 (for private car) (5m x 2.5m each)		---
Operation Hours	10:00a.m. to 8:00p.m. daily		---

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

- Application Form with annex and plans received on **(Appendix I)** 2.2.2021
- Further Information (FI) received on 11.3.2021 **(Appendix Ia)** clarifying the proposed operation and responding to departmental comments
[exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in the Application Form and FI (**Appendices I and Ia**). They can be summarised as follows:

- The Site is the subject of a previous planning permission (No. A/YL-TT/418) for the applied use since 2018. All approval conditions under the last application had been complied with. The implemented drainage facilities at the Site will be maintained. For the current application, the applicant undertakes to comply with all approval conditions to be imposed by the Board.
- The traffic trips are mainly generated by the staff members of the real estate agency, which are about 1-2 trips per hour.

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

The applicant is one of the “current land owners”. The applicant 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 obtaining consents from the remaining “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under the TPB PG-No. 31A are not applicable.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves four previous applications for temporary vehicles trading or shop and services uses. Details of the applications are summarised in **Appendix II** and the site boundary is shown on **Plan A-1**.

Rejected Application (1 Case)

- 5.2 Application No. A/YL-TT/296 for temporary vehicles trading (open storage of used vehicles for sale with ancillary office) for a period of three years was rejected by the Committee in 2012, mainly on the grounds that the development was not in line with the planning intention of the “V” zone and the then Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No.13E); there was no information in the submission to demonstrate why suitable sites within “Open Storage” zones could not be made available for the development; and setting of undesirable precedent.

Approved Applications (3 Cases)

- 5.3 Applications No. A/YL-TT/301, 343 and 418 for the same use as the current application were approved with conditions by the Committee each for a period of 3 years between 2012 and 2018, mainly on the considerations that approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “V” zone; the proposals were not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission under application No. A/YL-TT/301 was revoked in 2014 due to non-compliance with time-limited approval conditions.
- 5.4 Compared with the last application (No. A/YL-TT/ 418), the current application is submitted by the same applicant for the same use on the same site with similar site layout and development parameters.

6. Similar Applications

- 6.1 There are 11 similar applications for temporary shop and services uses with/without other uses within the subject “V” zone. Details of the applications are at **Appendix III** and the locations of the sites are shown on **Plan A-1**.

Approved Applications (8 Cases)

- 6.2 Applications No. A/YL-TT/289, 302, 327, 384, 429, 445, 462 and 472 were approved with conditions by the Committee or allowed by the Appeal Board Panel (Town Planning) (the Appeal Board Panel) on appeal each for a period of 1 or 3 year(s) between 2011 and 2019 mainly on the considerations that approval of the applications on a temporary basis would not frustrate the long-term planning intention of the “V” zone; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permissions under applications No. A/YL-TT/289, 302, 327 and 429 were subsequently revoked between 2012 and 2020 due to non-compliance with approval conditions.

Rejected Applications (3 Cases)

- 6.3 Applications No. A/YL-TT/344, 357 and 421 concerning one site were rejected by the Board on review or dismissed by the the Appeal Board Panel on appeal mainly on the grounds that there were potential adverse traffic/landscape/drainage impacts on the surrounding area; and approval of the applications with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

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

- 7.1 The Site is (**Plans A-2 and A-3**):
- (a) abutting Tai Tong Road to its west;
 - (b) paved and fenced off; and
 - (c) currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 7.2 The surrounding areas have the following characteristics (**Plans A-2 to A-4**):
- (a) rural residential in nature comprising predominantly village houses intermixed with shop and services, storage yards, a private swimming pool, a kindergarten, parking of vehicles, a warehouse, a workshop, a refuse collection point, shrubland, agricultural land and vacant land/structures;
 - (b) the nearest residential structure is located to its immediate east; and
 - (c) except for the shop and services and private swimming pool covered by valid planning permissions (No. A/YL-TT/427, 445 and 455) and the storage yard and kindergarten to the southwest and south of the Site, the

other storage yards, warehouse and workshop in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

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 the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the 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 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 and public comment, where relevant, are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises GL and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Within the Site, Lots 4892 S.A, 4892 RP and 4893 in D.D. 116 and the GL are currently covered by Short Term Waivers (STWs) No. 4338, 4340 and 4341 and Short Term Tenancy (STT) No. 2910 respectively to permit the structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”.
- (c) Should planning approval be given to the planning application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department.
- (d) There is no Small House application approved within the Site.

Traffic

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

The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Tong Road.

Environment

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

- (a) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (b) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) issued by the Environmental Protection Department to minimise any potential environmental nuisances on the surrounding area.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Based on the FI (**Appendix Ia**), apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-TT/418.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TT/418 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) However, the submitted FSIs proposal (**Drawing A-1**) is not acceptable to his department. The applicant should be reminded of the detailed comments on the submitted FSIs proposal at **Appendix V**.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

9.1.8 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 9.2.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one comment was received from an individual (**Appendix IV**) objecting to the application mainly on the grounds that the proposal will induce environmental nuisance and fire risk, and affect the safety and living quality of the villagers.

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” on the OZP. Although the applied use is not entirely in line with the planning intention of the “V” zone, which is primarily for development of Small House by indigenous villagers, the proposal is intended to serve the neighbourhood and could meet any such demand for shop and services in the area. According to DLO/YL, LandsD, there is currently no Small House application approved at the Site. As such, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The surrounding area comprises predominantly village houses intermixed with shop and services and parking of vehicles (**Plan A-2**). The development is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the local concerns and technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that three previous approvals for the same shop and services use have been granted to the Site and 8 similar applications have been approved within the subject “V” zone, approval of this application is generally in line with the Committee’s previous decisions. Regarding the previous application (No. A/YL-TT/296) rejected by the Committee, it was for temporary vehicles trading (open storage of used vehicles for sale with ancillary office) and different from the current application for shop and services.
- 11.5 There was one public comment received on the application during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 comment as summarised in paragraph 10 above, 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 26.3.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (e) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 26.6.2021;
- (h) 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 26.9.2021;
- (i) in relation to (h) 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 26.12.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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
- (k) if any of the above planning conditions (g), (h) or (i) 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 V**.

- 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 primarily 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 with annex and plans received on 2.2.2021
Appendix Ia	FI received on 11.3.2021
Appendix II	Previous applications covering the Site
Appendix III	Similar applications within the same “V” zone on the OZP
Appendix IV	Public comment received during the statutory publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan with FSIs Proposal
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**