

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TT/533**

- Applicant** : Mr. LAM Chuen Yiu
- Site** : Lots 4891 RP (Part), 4892 RP (Part), 4893 (Part) and 4894 (Part) in D.D. 116 and Adjoining Government Land (GL), Tai Tong Road, Yuen Long, New Territories
- Site Area** : 540 m<sup>2</sup> (about) (including GL of about 56 m<sup>2</sup> (about 10.4%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18
- Zoning** : “Village Type Development” (“V”)  
*[Restricted to a maximum building height of 3 storeys (8.23m)]*
- Application** : Temporary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary shop and services for a period of 3 years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use requiring 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 seven previous applications for various temporary shop and services uses (**Plan A-1b**). The last application (No. A/YL-TT/445) 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 8.3.2019. However, the planning permission was revoked on 8.8.2021 due to non-compliance with approval condition on implementation of run-in/out proposal. Compared with the last application, the current application is submitted by the same applicant for the same use on largely the same site with the same site layout and development parameters.
- 1.3 According to the applicant, the proposal is for an interior design and decoration engineering company. Only private cars will be allowed to access the Site. The

parking spaces are ancillary to the applied use and will not be used for motor vehicle showroom or car beauty service. Plans showing the site layout with fire service installations (FSIs) proposal, drainage proposal and run-in/out proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.4 The major development parameters of the current application are largely the same as the previously approved application No. A/YL-TT/445, which are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TT/445 (a)</b>	<b>Current Application No. A/YL-TT/533 (b)</b>	<b>Difference (b)-(a)</b>
Applied Use	Temporary Shop and Services for a Period of 3 Years		---
Site Area	About 520 m <sup>2</sup>	About 540 m <sup>2</sup>	+20m <sup>2</sup> (+3.8%)
Total Floor Area (Non-domestic)	About 120.96 m <sup>2</sup>		---
No. and Height of Structures	4 • for office, toilet, storage and covered parking spaces (2-3m, 1 storey)		---
No. of Parking Spaces	12 (for private cars) (5m x 2.5m each)		---
Operation Hours	9:00 a.m. to 8:00 p.m. daily		---

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

- (a) Application Form with plan received on 25.11.2021 **(Appendix I)**
- (b) Further Information (FI) received on 7.2.2022 **(Appendix Ia)**
- (c) FI received on 1.3.2022 **(Appendix Ib)**
- (d) FI received on 11.3.2022 **(Appendix Ic)**  
*[(b) to (d) exempted from publication and recounting requirements]*

- 1.6 On 7.1.2022, the Committee agreed to defer a decision on the application for a period of two months, as requested by the applicant. Since 7.2.2022, FI have been received and the application is submitted to the Committee for consideration at this meeting.

## **2. Justifications from the Applicant**

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

- (a) The Site was the subject of a previous planning permission for the applied use approved in 2019. All the approval conditions under the last application had been complied with except for the condition on implementation of run-in/out proposal. While an application for Excavation Permit was submitted to implement the run-in/out proposal, the applicant could not secure the permit before the prescribed

deadline of the approval condition. Should the current application be approved, the applicant undertakes to expedite compliance with the approval conditions imposed by the Board.

- (b) The traffic trips are mainly generated by the four staff members of the interior design and decoration engineering company, amounting to about 1 to 2 trips per hour. The occasional visitors to the Site will not affect the traffic of Tai Tong Road.
- (c) Consent from the owners of the village house to the immediate south of the Site (**Plan A-2**) has been obtained to facilitate the run-in/out arrangement. The traffic trips generated by the concerned village house are minimal and will not affect the Site's access.

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

The applicant is one of the “current land owners” 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 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 seven previous applications for various temporary shop and services uses. Details of the applications are summarised in **Appendix II** and the site boundaries are shown on **Plan A-1b**.

#### ***Rejected Applications (3 Cases)***

- 5.2 Applications No. A/YL-TT/344, 357 and 421 submitted by a different applicant were rejected by the Board on review or dismissed by the Appeal Board Panel (Town Planning) (the Appeal Board) on appeal between 2015 and 2018 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.

#### ***Approved Applications (4 Cases)***

- 5.3 Applications No. A/YL-TT/289, 302 and 327 submitted by a different applicant were approved with conditions by the Committee or allowed by the Appeal Board on appeal each for a period of 1 or 3 year(s) between 2011 and 2015, 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, all three planning permissions were revoked between 2012 to 2016 due to non-compliance with time-limited approval conditions.

- 5.4 Application No. A/YL-TT/445 submitted by the same applicant as the current application was approved with conditions by the Committee for a period of 3 years on 8.3.2019, mainly on similar considerations as those specified in paragraph 5.3 above. However, the planning permission was revoked on 8.8.2021 due to non-compliance with time-limited approval condition on implementation of run-in/out proposal. Compared with the last application (No. A/YL-TT/445), the current application is for the same use on largely the same site with the same site layout and development parameters.

## **6. Similar Applications**

There are eight similar applications (No. A/YL-TT/301, 343, 384, 418, 429, 462, 472 and 517) for temporary shop and services uses (mainly for real estate agency) covering three sites within the subject “V” zone. All eight applications were approved with conditions by the Committee each for a period of 3 years between 2012 and 2021 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/301 and 429 were subsequently revoked in 2014 and 2020 respectively due to non-compliance with approval conditions. Details of the applications are at **Appendix III** and the locations of the sites are shown on **Plan A-1a**.

## **7. The Site and Its Surrounding Areas (Plans A-1a 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 character comprising predominantly village houses and residential structures, intermixed with real estate agencies, car parks, storage yards, kindergarten, workshop, warehouse, refuse collection point, agricultural land, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate south; and
- (c) except for the real estate agencies covered by valid planning permissions (No. A/YL-TT/517 and 541), as well as a storage yard and kindergarten to the southwest and south of the Site, the other storage yard, car parks, warehouse and workshop in the vicinity are suspected unauthorised

developments (UDs) 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 comments, 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 RP and 4893 in D.D. 116 are covered by Short Term Waivers (STWs) No. 4340 and 4341 respectively to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”. No permission has been given for occupation of GL (about 56 m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or to regularise any irregularities on 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. Furthermore, the applicant has to exclude the GL portion from the Site or apply to her office for a Short Term Tenancy to occupy the GL. 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 rent or fee, as may be imposed by her department.

- (d) There is no Small House application approved at the Site.

### **Traffic**

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

The local track leading to the Site is not under her purview. The applicant should note the detailed comments at **Appendix V**.

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

- (a) He has no adverse comment on the submitted run-in/out proposal (**Drawing A-3**). Should the application be approved, approval condition requiring implementation of the accepted run-in/out proposal should be stipulated.
- (b) The applicant should note the detailed comments at **Appendix V**.

### **Environment**

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

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 from the public drainage point of view. The applicant should also note the detailed comments on the submitted drainage proposal at **Appendix V**.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission, implementation and maintenance of a revised drainage proposal for the development 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):

The submitted FSIs proposal (**Drawing A-1**) is considered acceptable. The applicant should note his detailed comments at **Appendix V**.

### **Building Matters**

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

- (a) As there is no record of approval granted by the Building Authority for the existing structure at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) 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 Comments Received During the Statutory Publication Period**

On 3.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two comments were received from individuals. One individual objects to the application on the grounds that the proposal will cause adverse environmental and fire safety impacts on the surrounding area (**Appendix IV-1**). Another individual opines that the revocation history of the previous application should be taken into consideration (**Appendix IV-2**).

## **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 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 real estate agencies and car parks (**Plan A-2**). The applied use 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, D of FS and CE/MN, DSD. Adverse traffic, environmental, fire safety and drainage impacts arising from the applied use are not anticipated. 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 The Site involves seven previous applications, amongst which, the last application (No. A/YL-TT/445) was submitted by the same applicant for the same use as the current application. The last application was approved with conditions for a period of 3 years by the Committee on 8.3.2019. However, the planning permission was revoked on 8.8.2021 due to non-compliance with time-limited approval condition on implementation of run-in/out proposal. Nevertheless, the applicant has submitted run-in/out proposal for the current application, to which CHE/NTW, HyD has no adverse comment on. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will also be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further applications.
- 11.5 Given that four previous approvals have been granted to the Site and eight similar applications have been approved within the subject “V” zone, approval of the application is generally in line with the Committee’s previous decisions. There were three previous applications rejected by the Board on review or dismissed by the Appeal Board 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. The former consideration is generally not applicable to the current application as there are no adverse comments from concerned departments. As for the latter consideration, sympathetic consideration could be given to the current application for the reasons stated in paragraph 11.4 above.
- 11.6 There were two public comments objecting to/providing comments on the application as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 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 18.3.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) 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;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (d) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the implementation of the accepted run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 18.9.2022;
- (f) the submission of a revised drainage proposal 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 18.6.2022;
- (g) in relation to (f) above, the implementation of the revised 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 18.9.2022;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the implementation of the accepted 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 18.9.2022;
- (j) if any of the above planning condition (a), (b), (c), (d) or (h) 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 condition (e), (f), (g) 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**

<b>Appendix I</b>	Application Form with plan received on 25.11.2021
<b>Appendix Ia</b>	FI received on 7.2.2022
<b>Appendix Ib</b>	FI received on 1.3.2022
<b>Appendix Ic</b>	FI received on 11.3.2022
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar Applications within the Subject "V" Zone on the OZP
<b>Appendices IV-1 and IV-2</b>	Public Comments received during the Statutory Publication Period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan with FSIs proposal
<b>Drawing A-2</b>	Drainage Proposal
<b>Drawing A-3</b>	Run-in/out Proposal
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo

**Plan A-4**

Site Photos

**PLANNING DEPARTMENT  
MARCH 2022**