

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/539

- Applicant** : Ms. LEUNG Yuen Yung
- Site** : Lot 1298 RP (Part) in D.D. 117 and Adjoining Government Land (GL), Tai Tong Shan Road, Tai Tong, Yuen Long, New Territories
- Site Area** : 862 m² (about) (including GL of about 113.3 m² or 13.1%)
- 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** : Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 3 years at the application site (the Site) (**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) within the “V” zone requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by some temporary structures and partly used for open storage of converted containers and storage of miscellaneous items without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is abutting Tai Tong Shan Road to its south (**Plan A-2**). According to the applicant, two existing temporary structures at the Site (**Plan A-4b**) will be converted into a retail shop with ancillary office and storage providing daily necessities. Plan showing the site layout submitted by the applicant is at **Drawing A-1**.
- 1.3 The major development parameters of the current application are summarised as follows:

Site Area	About 862 m ²
Total Floor Area (Non-domestic)	300 m ² (about)

No. and Height of Structures	2 for shop and services, office and storage (4m, 1 storey)
No. of Loading/Unloading (L/UL) Space	1 (for light goods vehicle)
No. of Parking Spaces	3 (for private cars)
Operation Hours	8:00 a.m. to 10:00 p.m. daily

- 1.4 The Site is the subject of two previous applications (No. A/YL-TT/403 and 502) for different uses (details at paragraph 5 below).
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with appendix and plans received on 23.12.2021 **(Appendix I)**
 - (b) Further Information (FI) received on 13.4.2022 **(Appendix Ia)**
 - (c) FI received on 27.5.2022 **(Appendix Ib)**
[(b) and (c) exempted from publication and recounting requirements]
- 1.6 On 18.2.2022, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments. FIs were received as stated in paragraph 1.5 above and 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 (**Appendices I and Ia**). They can be summarised as follows:

- (a) The proposal is in line with the planning intention of the “V” zone. The Site is highly accessible and the proposal will mainly serve the daily necessity needs of the local residents and villagers, as well as construction workers and tourists nearby.
- (b) The proposal will not occupy the footpath of the adjoining Tai Tong Shan Road. The submitted swept path analysis demonstrates that there is sufficient manoeuvring space for vehicles within the Site.

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

The applicant is not a “current land owner” 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 the notice to the Shap Pat Heung Rural Committee by registered post. 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 any planning enforcement action.

5. **Previous Applications**

There are two previous applications (No. A/YL-TT/403 and 502) involving the southern portion of the Site and areas to the further south both for temporary eating place (outside seating accommodation of a restaurant), which are not relevant to the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.

6. **Similar Applications**

There are six similar applications (No. A/YL-TT/300, 320, 342, 370, 475 and 496) for temporary shop and services uses within the subject “V” zone, which were approved with conditions by the Committee each for a period of 3 years between 2012 and 2020, 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 permissions under applications No. A/YL-TT/320 and 342 were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) abutting Tai Tong Shan Road to its south (**Plans A-2 and A-3**);
- (b) hard paved; and
- (c) currently occupied by some temporary structures and partly used for open storage of converted containers and storage of miscellaneous items without valid planning permission (**Plans A-2, A-4a and A-4b**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) rural residential in character comprising predominantly village houses and residential structures, intermixed with storage yards, warehouses, real estate agency, eating places, parking of vehicles/car park, pump house, construction sites, toilet and vacant land;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate east;
- (c) to the southeast of the Site is an area zoned “Open Storage” on the OZP; and

- (d) except for the real estate agency and eating places covered by valid planning permissions (No. A/YL-TT/475, 497 and 502), as well as three storage yards, two warehouses and parking of vehicles to the southeast of the Site and a storage yard to the west of the Site, the other storage yards and parking of vehicles/car park 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

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 III** and **IV** respectively.

10. Public Comments Received During the Statutory Publication Period

On 31.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One individual objects to the application mainly on the grounds that the proposal will induce pollution and fire risk, thereby compromising the safety and living quality of the villagers (**Appendix V-1**). The other individual urges the Board to question the identity of the applicant, the record on compliance with approval conditions of the last application and how the current proposal would affect the L/UL and parking arrangement of the previously approved eating place (**Appendix V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “V” on the OZP. Although the proposed 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 the District Lands Officer/Yuen Long, Lands Department, there is currently no Small House application approved/under processing 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 and residential structures intermixed with eating places, real estate agency and parking of vehicles/car park (**Plan A-2**). The proposed use is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. Significant adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the 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 on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental impact on the surrounding areas, and to note that the planning permission does not condone any other development/use currently existing at the Site (i.e. open storage of converted containers and storage of miscellaneous items) but not covered by the application.
- 11.4 Six similar applications for shop and services have been approved within the subject "V" zone. As such, approval of the current application is generally in line with the Committee's previous decisions.
- 11.5 There were two public comments objecting to/providing views on the application as summarised in paragraph 10 above. 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 comments mentioned 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 10.6.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a 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 10.12.2022;
- (b) in relation to (b) above, the implementation of the run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 10.3.2023;

- (c) the submission of a 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 10.12.2022;
- (d) in relation to (c) 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 10.3.2023;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 10.12.2022;
- (g) in relation to (f) 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 10.3.2023;
- (h) if the above planning condition (e) 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
- (i) if any of the above planning condition (a), (b), (c), (d), (f) or (g) 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 IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed 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 appendix and plans received on 23.12.2021
Appendix Ia	FI received on 13.4.2022
Appendix Ib	FI received on 27.5.2022
Appendix II	Previous Applications and Similar Applications within the Subject “V” Zone
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments Received During the Statutory Publication Period
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2022**