

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/541

- Applicant** : Eastford (China) Development Limited
- Site** : Lot 4888 RP (Part) in D.D. 116 and Adjoining Government Land (GL), Tai Tong, Yuen Long, New Territories
- Site Area** : 44.77 m² (about) (including GL of about 4 m² or 8.9%)
- 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** : Renewal of Planning Approval for Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services for a further period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ (except 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 with valid planning permission under application No. A/YL-TT/455 (**Plans A-2 and A-4**).
- 1.2 The Site involves four previous applications for various temporary uses (**Plan A-1**). The last application (No. A/YL-TT/455) 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 1.2.2019. All the time-limited approval conditions of the planning permission had been complied with and the planning permission is valid until 15.3.2022. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters albeit with longer operation hours.
- 1.3 According to the applicant, the proposal is for a real estate agency. A total of two staff members will be working at the Site. The operation hours will be from 8:00

a.m. to 10:00 p.m. daily. A site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL-TT/455, which are summarised as follows:

| Major Development Parameters | Previously Approved Application No. A/YL-TT/455 | Current Application No. A/YL-TT/541 |
|--|--|--|
| Applied Use | Temporary Shop and Services for a Period of 3 Years | |
| Site Area | About 44.77 m ² | |
| Total Floor Area (Non-domestic) | About 43.77 m ² | |
| No. and Height of Structure | 1 (at a height of 4.07m, 1 storey) | |
| No. of Loading/Unloading Space and Parking Space | Nil | |

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

- (a) Application Form with appendices and plans received on 7.1.2022 **(Appendix I)**
- (d) Further Information (FI) received on 14.2.2022 **(Appendix Ia)**
[exempted from publication and recounting requirements]

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:

the applied use and site layout remain unchanged. No parking activities will take place at or near the Site because all staff members and customers are expected to take public transport, such as bus and light bus, to the Site.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in 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) are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site involves four previous applications for various temporary uses. Except for application No. A/YL-TT/298 (for proposed temporary open storage of site tools and materials with site office) which is not relevant to the current application, the remaining three applications (No. A/YL-TT/310, 371 and 455) were for the same use as the current application. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-TT/310, 371 and 455 were approved with conditions each for a period of 3 years by the Committee between 2013 and 2019, mainly on the considerations that approval of the applications on a temporary basis would not jeopardise the long-term planning intention of the “V” zone; the proposals were not incompatible with the surrounding uses; and departmental concerns could be addressed by approval conditions. All the time-limited approval conditions under the last application had been complied with and the permission is valid until 15.3.2022.
- 6.3 Compared with the last application (No. A/YL-TT/455), the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters albeit with longer operation hours.

7. **Similar Application**

There is one similar application (No. A/YL-TT/509) for proposed temporary private vehicle park and shop and services use within the subject “V” zone. The application was approved with conditions for a period of 3 years by the Committee in 2021, mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “V” zone; and the departmental concerns could be addressed by imposing approval conditions. Details of the application are summarised in **Appendix IV** and the location of the site is shown on **Plan A-1**.

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

- 8.1 The Site is (**Plans A-2** and **A-4**):
- (a) abutting Sham Chung Road to its south; and
 - (b) currently occupied by the applied use with valid planning permission under application No. A/YL-TT/455.
- 8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
- (a) rural residential in nature comprising predominantly village houses and residential structures, intermixed with a real estate agency, car parks, warehouses, open storage/storage yards, a kindergarten, agricultural land, unused land and vacant land/structures;

- (b) there are residential structures in the vicinity of the Site with the nearest one located about 30m its northwest; and
- (c) except for a real estate agency covered by valid planning permission (No. A/YL-TT/517), as well as a storage yard and kindergarten in the vicinity, the open storage yard, warehouses and car parks in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

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 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.

10. Comments from Relevant Government Departments

- 10.1 The following government departments have been consulted and their views on the application and public comment, where relevant, are summarised as follows:

Land Administration

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

- (a) The Site comprises GL and an Old Schedule Agricultural Lot 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, Lot 4888 RP in D.D. 116 and the GL are currently covered by Short Term Waiver (STW) No. 3932 and Short Term Tenancy (STT) No. 2784 respectively to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”.
- (c) Should planning approval be given to the subject 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 as landlord or lessor at its sole discretion and there is no guarantee that such application 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 or under processing at the Site.

Traffic

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

The applicant is reminded that no parking, queuing and reverse movement of vehicles on public road, including footpath, are allowed.

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

Adequate drainage measures shall 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):

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) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

10.1.5 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.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI**.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be reminded of the detailed comments at **Appendix VI**.

Building Matters

10.1.7 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 VI**.

District Officer's Comments

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

His office has not received any comment from the locals.

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

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

11. Public Comment Received During the Statutory Publication Period

On 14.1.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that the application will cause adverse environmental and fire safety impacts on the surrounding area, thereby affecting the safety and living quality of the villagers (**Appendix V**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary shop and services 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 under processing/approved at the Site. As such, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The surrounding area comprises predominantly village houses and residential structure (**Plan A-2**). The development is small in scale and generally not incompatible with the surrounding uses.

- 12.3 The application is generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstance since the previous approval was granted; approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the last application No. A/YL-TT/455 had been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 There is no adverse comment from concerned government departments, including C for T, DEP, D of FS and CE/MN, DSD. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of 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.
- 12.5 Given that three previous approvals for the same use have been granted to the Site and that one similar application has been approved within the subject “V” zone, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.6 There was one public comment objecting to the application received during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment as summarised 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 and be renewed from 16.3.2022 to 15.3.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.9.2022;
- (b) in relation to (b) above, the implementation of fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.12.2022; and

- (c) if any of the above planning condition (a) or (b) 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.

[Approval conditions (a) and (b) are the same as those under the permission for application No. A/YL-TT/455; while restrictions on operation hours and parking of vehicles and the reinstatement clause have been removed as per the department's latest requirements.]

Advisory clauses

The recommended advisory clauses are at **Appendix VI**.

- 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 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.

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

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| Appendix I | Application Form with appendices and plans received on 7.1.2022 |
| Appendix Ia | FI received on 14.2.2022 |
| Appendix II | Relevant Extracts of TPB PG-No. 34D |
| Appendix III | Previous Applications covering the Site |
| Appendix IV | Similar Application within the Subject "V" Zone on the OZP |
| Appendix V | Public Comment received during the Statutory Publication Period |
| Appendix VI | Recommended Advisory Clauses |
| Drawing A-1 | Site Layout Plan |
| Plan A-1 | Location Plan with Similar and Previous Applications |
| Plan A-2 | Site Plan |

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| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |

**PLANNING DEPARTMENT
MARCH 2022**