

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

**APPLICATION NO. A/YL-TT/557**

- Applicant** : Mr. KWAN Hoi Ngai represented by Goldrich Planners and Surveyors Limited
- Site** : Lots 266 RP (Part) and 268 (Part) in D.D. 117 and Adjoining Government Land (GL), Tai Tong, Yuen Long, New Territories
- Site Area** : 249 m<sup>2</sup> (about) (including GL of about 18.5m<sup>2</sup> or 7.4%)
- 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** : Renewal of Planning Approval for Temporary Shop and Services (Local Provisions Store with Ancillary Storage and Real Estate Agency) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval for temporary shop and services (local provisions store with ancillary storage and real estate agency) for a 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’ 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 with valid planning permission No. A/YL-TT/472 (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Tai Tong Road to its north via a short local track (**Plan A-2**). According to the applicant, the applied use comprises a real estate agency and a local provisions store selling drinks and snacks. No parking and loading/unloading (L/UL) space is proposed as the staff and customers will access the Site by public transport or on foot and L/UL activities will be conducted off-site at a nearby L/UL bay (**Drawing A-1**). Plans showing the proposed off-site L/UL location, site layout, tree preservation proposal, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is the subject of three previous applications (details at paragraph 6 below).
- 1.4 The major development parameters of the previously approved application (No. A/YL-TT/472) are the same as the current application and are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TT/472</b>	<b>Current Application No. A/YL-TT/557</b>
Applied Use	Temporary Shop and Services (Local Provisions Store with Ancillary Storage and Real Estate Agency) for a Period of 3 Years	
Site Area	About 249 m <sup>2</sup>	
Total Floor Area (non-domestic)	About 206 m <sup>2</sup>	
No. and Height of Structures	5 • for real estate agency, local provisions store, toilet and storage (5.4-6.5m, 1-2 storey(s))	
No. of Parking and L/UL Space	--	
Operation Hours	8:00 a.m. to 10:00 p.m. daily	

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with appendices and plans received on 6.6.2022 **(Appendix I)**
  - (b) Further Information (FI) received on 7.7.2022 **(Appendix Ia)**
  - (c) FI received on 13.7.2022 **(Appendix Ib)**
  - (d) FI received on 21.7.2022 **(Appendix Ic)**  
*[(b) to (d) 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:

- (a) While there are lots of village houses along Tai Tong Road, local provisions store and real estate agency are limited in the area. The proposal aims to serve the locals and visitors.
- (b) The Site is the subject of previous planning permissions. All the time-limited approval conditions of the last application (No. A/YL-TT/472) had been complied with.
- (c) There will be no adverse impacts arising from the proposal. The existing trees at the Site will be properly maintained with regular horticultural maintenance and tree inspection.

### **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. 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 any planning enforcement action.

### **6. Previous Applications**

6.1 The Site involves three previous applications (No. A/YL-TT/384, 429 and 472) for temporary shop and services uses. All three applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board each for a period of 3 years between 2016 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; the proposals were not incompatible with the surrounding environment; and the concerns of departments could be addressed by imposing approval conditions. However, the planning permission under application No. A/YL-TT/429 was revoked in 2020 due to non-compliance with time-limited approval conditions. For the planning permission under the last application (No. A/YL-TT/472), all the time-limited approval conditions had been complied with and the planning permission is valid until 29.7.2022. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.

6.2 Compared with the last application (No. A/YL-TT/472), 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.

### **7. Similar Applications**

7.1 There are 13 similar applications for various temporary shop and services uses concerning three sites within the subject “V” zone. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

### ***Approved Applications (10 Cases)***

- 7.2 Applications No. A/YL-TT/289, 301, 302, 327, 343, 418, 445, 462, 517 and 533 were all approved with conditions by the Committee or allowed by the Appeal Board Panel (Town Planning) (the Appeal Board) on appeal each for a period of 1 or 3 year(s) between 2011 and 2022, mainly on similar considerations as those specified in paragraph 6.1 above. However, the planning permissions under applications No. A/YL-TT/289, 301, 302, 327 and 445 were revoked between 2012 and 2021 due to non-compliance with approval conditions.

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

- 7.3 Applications No. A/YL-TT/344, 357 and 421 were rejected by the Board on review or dismissed by the Appeal Board on appeal between 2015 and 2018 mainly on the grounds that there were potential adverse traffic/landscape/drainage impacts; and approval of the applications with repeated non-compliances with approval conditions would set an undesirable precedent.

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

- 8.1 The Site is:

- (a) accessible via a short local track leading from Tai Tong Road to its north (**Plan A-2**);
- (b) hard-paved and fenced-off; and
- (c) currently occupied by the applied use with valid planning permission No. A/YL-TT/472 until 29.7.2022 (**Plans A-2 to A-4b**).

- 8.2 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 open storage/storage yards, workshop, car services, shop, carpark/parking of vehicles, agricultural land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate west; and
- (c) the open storage/storage yards, workshop, car services, shop and carpark/parking of vehicles 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**

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 Comment Received During the Statutory Publication Period**

On 14.6.2022, 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 proposal will cause environmental pollution and fire risk, thereby compromising the safety and living quality of the villagers (**Appendix VI**).

#### **12. Planning Considerations and Assessments**

- 12.1 The application is for renewal of planning approval for temporary shop and services (local provisions store with ancillary storage and real estate agency) for a period of 3 years at the Site zoned “V”. Although the applied use is not entirely in line with the planning intention of the “V” zone, which is primarily for development of Small Houses 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 three years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The surrounding areas comprise predominantly village houses and residential structures intermixed with open storage/storage yards and carpark/parking of vehicles (**Plan A-2**). The applied use is 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 circumstances since the granting of the previous approval under application No. A/YL-TT/472; all the time-limited approval conditions under the previous application No. A/YL-TT/472 had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 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 13.2 to address the technical requirements of the concerned government departments.

- 12.5 Given that three previous approvals for shop and services uses have been granted to the Site and ten similar applications have been approved or allowed on appeal within the subject “V” zone, approval of the current application is generally in line with the Committee or the Appeal Board’s previous decisions. There were three similar 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 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, all the time-limited approval conditions under the last application (No. A/YL-TT/472) had been complied with.
- 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 above 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 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 and be renewed from 30.7.2022 to 29.7.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval conditions

- (a) the existing trees on the Site shall be maintained at all times during the approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 30.10.2022;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) if any of the above planning condition (a), (b) or (d) 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 the above planning condition (c) 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) to (c) are the same as those under the permission for application No. A/YL-TT/472; condition (d) has been updated as per the current application; restrictions on prohibiting access of vehicles to the Site and operation hours have been removed as per the current application and per the department's latest requirement respectively.]*

Advisory clauses

The recommended advisory clauses are 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 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**

<b>Appendix I</b>	Application Form with appendices and plans received on 6.6.2022
<b>Appendix Ia</b>	FI received on 7.7.2022
<b>Appendix Ib</b>	FI received on 13.7.2022
<b>Appendix Ic</b>	FI received on 21.7.2022
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 34D
<b>Appendix III</b>	Previous and Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public Comment
<b>Drawing A-1</b>	Plan showing the off-site L/UL location
<b>Drawing A-2</b>	Site Layout Plan

<b>Drawing A-3</b>	Tree Preservation Proposal
<b>Drawing A-4</b>	Drainage Proposal
<b>Drawing A-5</b>	FSIs Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2022**