

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/561

- Applicant** : 鄧偉達 represented by Goldrich Planners & Surveyors Limited
- Site** : Lot 1213 S.B ss. 1 in D.D. 118, Yuen Long, New Territories
- Site Area** : 676 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18
- Zoning** : “Other Specified Uses” annotated “Rural Use” (“OU(RU)”)
[Restricted to a maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
- 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 for the “OU(RU)” zone, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 The Site is accessible via a local track leading from Tai Shu Ha Road West to its northeast. According to the applicant, the proposal is for a ceramic ware shop with showroom, office and ancillary storage. Plans showing the vehicular access leading to the Site, site layout and drainage proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	About 676 m ²
Total Floor Area (Non-domestic)	228 m ² (about)
No. and Height of Structures	2 • for shop, showroom and ancillary office and storage (7.5m, 1-2 storey(s))

No. of Parking Space(s)	2 • for private car (5m x 2.5m each) 1 • for light goods vehicle (LGV) (7m x 3.5m)
No. of Loading/ Unloading Space	Nil
Operation Hours	10:00 a.m. to 6:00 p.m., with no operation on Sundays and public holidays

- 1.4 In support of the application, the applicant has submitted an Application Form with annex and plans received on 7.7.2022 (**Appendix I**).

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the annex to the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The temporary proposal will not jeopardise the long-term planning intention of the “OU(RU)” zone. A number of shop and services uses have been approved by the Board in the vicinity of the Site.
- (b) The proposed use would generate job opportunities. There will be minimal traffic and environmental impacts arising from the proposal.

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.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone’ (TPB PG-No. 38) are relevant to the application. The relevant extract of the Guidelines is attached at **Appendix II** and the assessment criteria are summarised as follows:

application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Application

The Site involves one rejected previous application (No. A/YL-TT/21) for open storage use which is not relevant to the current application. Details of the application are summarised in **Appendix III** and the boundary of the site is shown on **Plan A-1**.

7. Similar Applications

There are 10 similar applications for various shop and services uses within/straddling the subject “OU(RU)” zone considered by the Rural and New Town Planning Committee (the Committee) of the Board between 2015 and 2022. All 10 applications were approved by the Committee mainly on similar considerations that the temporary proposals would not jeopardise the long-term planning intention; the proposals were not incompatible with the surrounding uses; and the applications were generally in line with TPB PG-No. 38. However, the planning permissions for four of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

8. Planning Intention

The planning intention of the “OU(RU)” zone is primarily for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities.

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

9.1 The Site is:

- (a) accessible via a local track leading from Tai Shu Ha Road West to its northeast (**Plan A-2**); and
- (b) paved, fenced off and currently vacant (**Plan A-4**).

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

- (a) mixed in character with predominately open storage/storage yards and residential structures with scattered vehicles repair workshops, plant nurseries, parking of vehicles, graves, site office, agricultural land, an electricity pylon and vacant land/structure;

- (b) there are residential structures in the vicinity of the Site with the nearest ones located about 20m to its west (**Plan A-2**);
- (c) to the further southeast, south and west of the Site are areas zoned “Open Storage” (“OS”), “Agriculture” and “Village Type Development” respectively on the OZP; and
- (d) except for one open storage yard in the “OS” zone, the other open storage/storage yards, vehicles repair workshops and site office in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

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 Comments Received During the Statutory Publication Period

On 15.7.2022, 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 supports the application on the grounds that there is no impact to the nearby village, the proposal would optimise land resources and will provide job opportunities (**Appendix VI-1**). Another individual objects to the application on the grounds that the proposed use will generate adverse environmental and fire safety impacts on the surrounding area (**Appendix VI-2**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “OU(RU)” on the OZP. The planning intention of the “OU(RU)” zone is primarily for the preservation of the character of the rural area. Although the proposed use is not entirely in line with the planning intention of the “OU(RU)” zone, it could meet any such demand for shop and services in the area. As there is no known development proposal for the Site, approval of the application on a temporary basis of three years would not frustrate the long-term planning intention of the area.
- 12.2 The proposed use is generally not incompatible with the surrounding uses, which comprise scattered residential structures, plant nurseries, agricultural land and parking of vehicles with some suspected UD of open storage/storage yards (**Plan A-2**).
- 12.3 There is no adverse comment from concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. The application is also generally in line with TPB PG-No.

38 in that the proposal would not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings, nor would it overstrain the capacity of existing and planned infrastructure. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned government departments.

- 12.4 Given that 10 similar applications within/straddling the subject “OU(RU)” zone have been approved, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.5 There are two public comments supporting/objecting to the application received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments 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 until 26.8.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the implementation of the agreed 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 26.5.2023;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) 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 26.2.2023;
- (d) in relation to (c) 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 26.5.2023;
- (e) if the above planning condition (b) 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 any of the above planning condition (a), (c) or (d) 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**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the proposed use is not in line with the planning intention of the "OU(RU)" zone, which is primarily for the preservation of the character of the rural area. 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

Appendix I	Application Form with annex and plans received on 7.7.2022
Appendix II	Relevant extract of TPB PG-No. 38
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 and VI-2	Public Comments
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2022**