

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/591

- Applicant** : Merrily Development and Investment Company Limited represented by Metro Planning and Development Company Limited
- Site** : Lot 1200 RP (Part) in D.D. 117 and adjoining Government Land (GL), Tai Tong, Yuen Long, New Territories
- Site Area** : 1,150 m² (about) (including GL of about 50 m² or 4.35%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/19
- 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 three years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently fenced, paved and occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site abuts Tai Tong Shan Road to its north (**Plan A-2**). According to the applicant, the applied use is for a shop selling hardware accessories to serve the nearby residents. Only private cars and light goods vehicles (LGVs) will be allowed to enter/park at the Site. Plans showing the site layout, as-built drainage facilities and proposed fire service installations (FSIs) submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The Site is the subject of two previous applications for the same use approved by the Rural and New Town Planning Committee (the Committee) of the Board (details at paragraph 5 below). Compared with the last application (A/YL-TT/566), the current application is submitted by the same applicant for the same use at a slightly larger site with the same layout and development parameters. The

major development parameters of the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/566 (a)	Current Application No. A/YL-TT/591 (b)	Difference (b) – (a)
Applied Use	Temporary Shop and Services for a Period of 3 Years		---
Site Area	About 1,100 m ²	About 1,150m ²	+50m ² (+4.55%)
Total Floor Area	Not more than 302 m ²		---
No. of Structures	5 (for shop, site offices, store room, toilet and electricity meter room)		---
Height of Structures	3-6m, 1-2 storey(s)		---
No. of Parking Space(s)	2 for private cars (5m x 2.5m each)		---
No. of Loading/ Unloading Space	2 for LGVs (7m x 3.5m each)		---
Operation Hours	9:00 a.m. to 7:00 p.m. daily		

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

- (a) Application Form with attachments received on 20.3.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 26.4.2023 **(Appendix Ia)**
 - (c) FI received on 12.5.2023 **(Appendix Ib)**
 - (d) FI received on 19.7.2023 **(Appendix Ic)**
 - (e) FI received on 29.8.2023 **(Appendix Id)**
- Items (b), (c) and (d) accepted and exempted from publication requirements and Item (e) accepted and not exempted from publication requirements*

1.5 On 19.5.2023, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

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 Site is subject of two previous planning permissions (No. A/YL-TT/496 and 566) for the same use as the current application. As the applicant failed to meet the deadline for compliance with a time-limited approval condition of the last application, a fresh application is submitted;
- (b) the applied use is temporary in nature and would not jeopardise the long-term planning intention of the “V” zone. Similar shop and services uses have been approved by the Board within the subject “V” zone. The applied use is not

incompatible with the surrounding environment and would benefit the nearby villagers; and

- (c) traffic and drainage impacts arising from the proposal are minimal.

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 as set out in TPB PG-No. 31A are not applicable.

4. **Background**

The Site is subject to planning enforcement action against unauthorized developments (UDs) involving use for place for parking of vehicles, storage and office uses. Two Enforcement Notice (ENs) were issued to the concerned parties on 4.8.2023 requiring discontinuance of the UD. The ENs will expire on 4.11.2023 and if they are not complied with, prosecution may be taken.

5. **Previous Applications**

- 5.1 Majority of the Site is the subject of two previous applications (No. A/YL-TT/496 and 566) for the same use as the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Both previous applications were approved with conditions by the Committee each for a period of three years in 2020 and 2022, 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, both planning permissions were revoked in 2022 due to non-compliance with respective time-limited approval conditions (i.e. provision of a proper road connection or run-in/out for No. A/YL-TT/496 and submission of a condition record of the existing drainage facilities for No. A/YL-TT/566).

6. **Similar Applications**

There are six similar applications (No. A/YL-TT/475, 539, 549, 555, 558 and 565) for various shop and services uses within the subject “V” zone approved by the Committee between 2019 and 2022, each for a period of three or five years, mainly on similar considerations as mentioned in paragraph 5.2 above. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) abutting Tai Tong Shan Road to its north (**Plan A-3**);
- (b) fenced off and paved; and
- (c) occupied by the applied use 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 intermixed with open storage/storage yards, parking of vehicles, eating places, real estate agency, plant nursery, toilet, vehicle showroom, office, construction sites and vacant land/structures;
- (b) there are residential structures in the vicinity with the nearest ones located to its immediate south; and
- (c) except for the two eating places, real estate agency and vehicle showroom covered by valid planning permissions (No. A/YL-TT/596, 599, 558 and 565), as well as a storage yard to the northeast of the Site, the remaining open storage/storage yards, parking of vehicles and office uses in the vicinity are suspected UD's subject to planning enforcement action.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this 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 New Territories Exempted House. 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 Comment Received During the Statutory Publication Period

On 28.3.2023 and 8.9.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, one public comment was received from an individual raising concerns over the non-compliance of approval conditions of the previous applications (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of three 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, it 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 applied use is generally compatible with the surrounding uses, which is rural residential in character intermixed with eating places, open storage/storage yards and parking of vehicles (**Plan A-2**).
- 11.3 Concerned government departments, including the Commissioner for Transport (C for T), Director of Environmental Protection, Director of Fire Services (D of FS) and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) have no objection to/no adverse comment on the application. Adverse traffic, environmental, fire safety and drainage impacts arising from the proposal are not envisaged. Relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned departments.
- 11.4 The two previous applications (No. A/YL-TT/496 and 566) for the same use as the current application were approved with conditions for a period of three years by the Committee in 2020 and 2022. However, both planning permissions were revoked in 2022 due to non-compliance with respective time-limited approval conditions (i.e. provision of a proper road connection or run-in/out for No. A/YL-TT/496 and submission of a condition record of the existing drainage facilities for No. A/YL-TT/566). The current application is submitted by the same applicant with a slightly larger site with the same layout and development parameters as the last application. The applicant has provided justifications for non-compliance with approval conditions of the last application and submitted an as-built drainage plan, photos of the existing run-in/out and a FSI's proposal in the current application, on which CE/MN, DSD, C for T, Chief Highways Engineer/New Territories West, Highways Department and D of FS have no adverse comment. As such, sympathetic consideration may be given to the current application. The applicant will 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 two previous approvals for the same use have been granted to the Site and six similar applications have been approved within the subject “V” zone since 2019, approval of the current application is generally in line with the Committee's previous decisions.
- 11.6 There is one public comment raising concerns over the application received during the statutory publication periods as summarised in paragraph 10 above. 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 comment 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 three years until 27.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a condition record of the existing drainage facilities on the site 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 27.1.2024;
- (b) in relation to (a) above, the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (c) the implementation of the accepted 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 27.7.2024;
- (d) 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
- (e) if any of the above planning condition (a) or (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.

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 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

Appendix I	Application Form with Attachments received on 20.3.2023
Appendix Ia	FI received on 26.4.2023
Appendix Ib	FI received on 12.5.2023
Appendix Ic	FI received on 19.7.2023
Appendix Id	FI received on 29.8.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Site Layout Plan
Drawing A-2	As-built Drainage Plan
Drawing A-3	Fire Service Installations Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**