

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/592

- Applicant** : Mr. Ting Wai Keung represented by Metro Planning and Development Company Limited
- Site** : Lots 1605 S.B, 1605 S.C, 1605 S.D, 1605 RP (Part) and 1607 RP (Part) in D.D. 119 and Adjoining Government Land (GL), Muk Kiu Tau Tsuen, Yuen Long, New Territories
- Site Area** : About 501 m² (including G.L. of about 10m² or 2%)
- 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’ (other than on the ground floor of a New Territories Exempted House) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site abuts Kiu Hing Road to its west. According to the applicant, the applied use is a shop for selling vehicle parts, such as audio system, GPS system and car accessories to serve the nearby residents. Plan showing the site layout, drainage proposal and fire service installations (FSIs) plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The Site is the subject of a previous application (No. A/YL-TT/436) for the same use approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2018 (details at paragraph 5 below).

- 1.4 Compare with the last application (No. A/YL-TT/436), the current application is submitted by the same applicant for the same use at a larger site with similar layout but different development parameters.
- 1.5 The major development parameters of the current application and the last previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/436 (a)	Current Application No. A/YL-TT/592 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services for a Period of 3 Years		-
Site Area	About 381 m ² (No GL is involved)	About 501 m ² (including GL of about 10m ²)	+120 m ² (+31.5%)
Total Non-domestic Gross Floor Area	About 221 m ²	Not more than 280 m ²	+59 m ² (+26.7%)
No. of Structures	1 for shop and services	3 for shop and services, site office and toilet	+2
Height of Structures	Not exceeding 5.5 m (1 storey)		-
No. of Parking Spaces	Nil	1 for private car (5m x 2.5m)	+1
No. of Loading/Unloading Space	1 for light goods vehicle (7m x 3.5m)		-
Operation Hours	11:00 a.m. to 4:00 p.m. daily	9:00 a.m. to 5:00 p.m. daily	Longer Operation Hours

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

- (a) Application Form received on 22.3.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 9.5.2023* **(Appendix Ia)**
 - (c) FI received on 10.5.2023* **(Appendix Ib)**
- * accepted and exempted from publication requirements*

2. Justifications from the Applicant

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

- (a) the Site is subject to a planning permission approved in 2018 for the same use as the current application. New additional structures for toilet and site office are proposed at the Site. The proposed development would benefit the nearby residents by meeting their demand for consuming vehicle parts;

- (b) the Site is currently occupied by a new tenant and he pledges to comply with the approval conditions if planning permission is granted;
- (c) the temporary nature of the applied use would not jeopardise the long-term planning intention of the subject “V” zone;
- (d) similar application was approved with conditions within the same “V” zone. The applied use is not incompatible with the surrounding environment; and
- (e) minimal traffic impact and insignificant drainage, noise and environmental impacts are anticipated.

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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending the notice to Shap Pat Heung Rural Committee. 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 planning enforcement action.

5. Previous Application

- 5.1 Majority of the Site is the subject of a previous application (No. A/YL-TT/436) for the same use as the current application. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1b**.
- 5.2 Application No. A/YL-TT/436 for temporary shop and services (vehicle parts shop) was approved with conditions for a period of three years by the Committee on 17.8.2018 mainly on the considerations that the proposal was not entirely incompatible with the surrounding uses; the proposal would not frustrate the long-term planning intention of the “V” zone; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission was subsequently revoked in 2019 due to non-compliance with time-limited approval conditions, including the submission of FSIs and drainage proposals.

6. Similar Applications

There are five similar applications (No. A/YL-TT/440, 450, 516, 522 and 554) for various shop and services uses with/without other use within/straddling the subject “V” zone approved with conditions by the Committee each of a period of three years in the past

five years (i.e between 2018 and 2023) mainly on similar considerations as those mentioned in paragraph 5.2 above. However, the planning permissions of applications No. A/YL-TT/440 and 450 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-1a**.

7. 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.

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

8.1 The Site is:

- (a) abutting Kiu Hing Road to its west (**Plan A-2**); and
- (b) hard-paved and currently occupied by the applied use without valid planning permission (**Plan A-4**).

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

- (a) rural residential in character comprising village houses and residential structures, intermixed with open storage/storage yards, warehouses, car servicing, car parks/parking for vehicles, shrubland, agricultural land and vacant land/structures;
- (b) the village cluster of Muk Kiu Tau Tsuen is located east of the Site, with the nearest village house located to its immediate east;
- (c) to the west of the Site is a nullah flanked by Kiu Hing Road and Kung Um Road; and
- (d) the open storage/storage yards, warehouses, car servicing and car parks/parking for vehicles in the vicinity are suspected unauthorized developments (UDs) subject to planning enforcement action.

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 31.3.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising concerns about whether any action had been taken to comply with approval conditions of the previous application (**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 are currently three Small House applications under processing within the Site. The applicant committed to cease the operation of the applied use once the Small House grant applications at the Site are approved. 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 not incompatible with the surrounding uses, which comprise predominantly village houses and residential dwellings intermixed with warehouses, car servicing and open storage/storage yards (**Plan A-2**).
- 11.3 There is no adverse comment from concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services (D of FS) and Chief Engineer/Mainland North, Drainage Services Department (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 12.2 below to address the technical requirements of concerned government departments.
- 11.4 Majority of the Site is subject to a previous application (No. A/YL-TT/436) for the same use as the current application which was approved with conditions for a period of three years by the Committee in 2018. However, the planning permission was revoked in 2019 due to non-compliance with time-limited approval conditions, including the submission of FSIs and drainage proposals. Compared with the last application, the current application is submitted by the same applicant with a similar layout plan but different development parameters. The applicant has submitted FSIs and drainage proposals to support the current application and D of FS and CE/MN, DSD have no in-principle objection to the application. 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 a previous approval concerning the Site has been granted and five similar applications have been approved within the subject “V” zone in the past five years, approval of the current application is generally in line with the Committee’s previous decisions.

- 11.6 There is one public comment received on the application during the statutory publication period providing views on the application 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 above 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 19.5.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 19.11.2023;
- (b) in relation to (a) above, the implementation of the revised 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 19.2.2024;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the submission of a revised 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 19.11.2023;
- (e) in relation to (d) above, the implementation of the revised 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 19.2.2024;
- (f) if the above planning condition (c) 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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 Member's 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 received on 22.3.2023
Appendix Ia	FI received on 9.5.2023
Appendix Ib	FI received on 10.5.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Drainage Plan
Drawing A-3	Proposed FSIs Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2023**