

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1129

- Applicant** : Mr. TSOI Yung Ngai represented by Metro Planning and Development Company Limited
- Site** : Lot 378 S.C in D.D. 121, Tai Tao Tsuen, Yuen Long, New Territories
- Site Area** : 180 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of 3 years (**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 vacant (**Plans A-2 and A-4b**), and does not involved in any previous application.
- 1.2 According to the applicant, the proposal is for a real estate agency serving the nearby residents. 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	180 m ² (about)
Total Floor Area (non-domestic)	80 m ² (about)

No. and Height of Structure	1 • for real estate agency, storeroom and toilet (6m, 2 storeys)
No. of Loading/ Unloading Space	--
No. of Parking Spaces	3 (for private car) (2.5m x 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 annexes and plans received on 15.11.2021 (**Appendix I**)
- (b) Further Information (FI) received on 29.12.2021 (**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 mainly detailed in the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The temporary proposal would not jeopardise the long-term planning intention of the “V” zone.
- (b) The proposed use is not incompatible with the surrounding environment. Moreover, similar applications for shop and services have been approved. There will be minimal traffic, noise, environmental and drainage impacts arising from the proposal.

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.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Application

There is no similar application within the subject “V” zone.

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

7.1 The Site is:

- (a) accessible via a local track leading from Castle Peak Road – Hung Shui Kiu to its north (**Drawing A-1** and **Plan A-3**); and
- (b) paved, partly fenced-off and currently vacant (**Plans A-2** and **A-4b**).

7.2 The surrounding areas have the following characteristics (Plans A-2** to **A-4b**):**

- (a) comprise predominantly village houses with scattered open storage/storage yards, warehouses, residential structures, construction sites, a vehicle repair workshop and vacant land in the subject “V” zone;
- (b) the Site is set amongst a village type development known as “Le Regent” with the nearest house located to its immediate north;
- (c) to the west in the adjacent “Government, Institution or Community” zone are Tai Tao Tsuen Substation, an open storage yard and parking of vehicles;
- (d) a residential development known as “Uptown” is located to the further southwest of the Site across Hung Tin Road in an area zoned “Comprehensive Development Area” on the OZP; and
- (e) the open storage/storage yards, warehouses, vehicle repair workshop and parking of vehicles in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

8. 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 this 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.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises 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) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or to regularise any irregularities on site, if any. 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 of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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.
- (c) There is no Small House application under processing/approved within the Site.

Traffic

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

- (a) She has no adverse comment on the application from traffic engineering point of view.
- (b) The applicant should be reminded of the detailed comments at **Appendix III**.

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

- (a) Adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (b) The access road connecting the Site with Castle Peak Road – Hung Shui Kiu is not and will not be maintained by his office. His office should not be responsible for the maintenance of any access connecting the Site with Castle Peak Road – Hung Shui Kiu.

Environment

9.1.4 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 Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal (**Drawing A-3**). Nevertheless, the applicant should be reminded of the detailed comments at **Appendix III**.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring implementation and maintenance of the agreed drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 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. Therefore, 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 III**.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix III**.

District Officer's Comments

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

His office has not received any comment from the locals.

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

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

10. Public Comments Received During the Statutory Publication Period

On 23.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two comments were received from individuals (**Appendices II-1** and **II-2**) objecting to the application mainly on the grounds that the proposal, which is in close proximity to existing residences, may cause adverse fire safety, noise and health impacts as well as public security problem.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “V” on the OZP. Although the proposed 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.
- 11.2 The surrounding area comprises predominantly village houses intermixed with open storage/storage yards and warehouses (**Plan A-2**). The proposed use is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application 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 12.2 to address the technical requirements of other 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.
- 11.4 The Site is not subject to previous application. There is also no similar application within the subject “V” zone.
- 11.5 There were two public comments objecting to the application as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. For the concern on public security, C of P has no comment on the application.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments 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 3 years until 14.1.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the implementation of the accepted 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 14.7.2022;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 14.7.2022;
- (e) in relation to (d) 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 14.10.2022;
- (f) if any of the above planning conditions (a) or (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 conditions (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 III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed 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 to justify 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 annexes and plans received on 15.11.2021
Appendix Ia	FI received on 29.12.2021
Appendices II-1 and II-2	Public Comments received during the Statutory Publication Period
Appendix III	Recommended Advisory Clauses
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
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**