

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1188

- Applicant** : Mr. CHEUNG Kam Kwong represented by Goldrich Planners and Surveyors Limited
- Site** : Lot 1543 (Part) in D.D. 121, Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 1,987.8 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** : Temporary Shop and Services (Motor-Vehicle Showroom) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services (motor-vehicle showroom) for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “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 without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the applied outdoor motor-vehicle showroom is for the display of second-hand private cars. No medium or heavy goods vehicles, including container tractors/trailers, will be allowed to access the Site. No car beauty, washing, repairing, dismantling or other workshop activities will be conducted at the Site. 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 Site is the subject of a previous application (No. A/YL-TYST/912) (details at paragraph 5 below).

- 1.4 The major development parameters of the current application and the previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/912 (a)	Current Application No. A/YL-TYST/1188 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services (Motor-Vehicle Showroom) for a Period of 3 Years		---
Site Area	About 1,987.8 m ²		---
Total Floor Area (Non-domestic)	About 30 m ²	About 637.6 m ²	+607.6 m ² (+2025%)
No. and Height of Structures	2 for site office and storeroom (2.6m, 1 storey)	8 for site offices, storeroom, open sheds and toilet (3 – 5m, 1 storey)	+6 (+300%)
No. of Parking Spaces	4 (for private car) (5 m x 2.5 m each)		---
No. of Loading/ Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m each)		---
Operation Hours	9:00 a.m. to 6:00 p.m. daily		---

- 1.5 In support of the application, the applicant has submitted an Application Form with Attachments dated 10.10.2022 (**Appendix I**).

2. Justifications from the Applicant

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

- the Site is subject to a previously approved application (No. A/YL-TYST/912) for the same use and all the time-limited approval conditions of the last application had been complied with. When compared with the last application, an additional office and four open sheds are proposed under the current application to meet the growth of business and to protect the vehicles from sunlight;
- the applied use can create employment opportunities for local residents and fulfil the local demand for private cars; and
- there will be no adverse visual, drainage and traffic impacts arising from the applied use.

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 Ping Shan Rural Committee by registered post. 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

- 5.1 The Site involves a previous application (No. A/YL-TYST/912) for the same use as the current application, which was approved with conditions for a period of three years by the Rural and New Town Planning Committee (the Committee) of the Board in 2018 mainly on the considerations that approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone; the proposed development was not incompatible with the surrounding uses; and the concerned government departments had no adverse comments on the application. All the time-limited approval conditions were complied with and the planning permission lapsed on 8.9.2021. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.
- 5.2 Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with different site layout and development parameters (see paragraph 1.4).

6. Similar Applications

There are seven similar applications (No. A/YL-TYST/855, 974, 998, 1043, 1113, 1115 and 1134) for various shop and services uses with/without other uses within/straddling the subject “V” zone. All seven applications were approved mainly on similar considerations as those in paragraph 5.1 above. However, the planning permissions for three of them (No. A/YL-TYST/974, 1113 and 1115) were subsequently revoked due to non-compliance with approval conditions. Details of the applications are at **Appendix II** and their locations are shown on **Plan A-1**.

7. 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.

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

- 8.1 The Site is:
- (a) accessible from Shan Ha Road to its north via a local track (**Plan A-3**); and
 - (b) paved and fenced-off and occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).

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

- (a) comprise predominantly village houses and residential structures intermixed with open storage/storage yards, warehouses, car parks, Tsz Tongs, a public toilet and some unused land;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate east. The main village cluster of Shan Ha Tsuen is about 35m to the east of the Site; and
- (c) the open storage/storage yards, warehouses and car parks in the vicinity are suspected unauthorized developments 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 18.10.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals. One objects to the application on the grounds that the applied use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix V-1**). The other opines that the actual nature of business at the Site should be looked into by the Board (**Appendix V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (motor-vehicle showroom) for a period of three years at the Site zoned “V” on the OZP. Although the proposed use is not in line with the planning intention of the “V” zone, according to District Lands Officer/Yuen Long, Lands Department, 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 three years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The surrounding area comprises predominantly village houses and residential structures intermixed with open storage/storage yards, warehouses and car parks (**Plan A-2**). Although there are residential structures nearby, the applied use is generally not incompatible with the surrounding uses.
- 11.3 Concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application. 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

minimise any potential environmental nuisances or to address the technical requirements of concerned government departments.

- 11.4 Given that one previous approval for the same applied use at the Site and seven similar applications have been approved within/straddling the subject “V” zone, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 There are two public comments objecting to/raising queries on the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 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 three years until 9.12.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the implementation of the accepted 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 9.9.2023;
- (b) in relation to (a) above, the implemented drainage facilities on the Site 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 9.6.2023;
- (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 9.9.2023;
- (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 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 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. 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 10.10.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-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
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2022**