

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1251

- Applicant** : Mr. CHEUNG Hang Choi represented by Metro Planning & Development Company Limited
- Site** : Lot 1586 in D.D. 121 and Adjoining Government Land (GL), Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 355 m² (about) (including GL of about 5 m² (about 1.4%))
- 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 (BH) of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services 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 which requires planning permission from the Town Planning Board (the Board). Any excavation of land within the “V” zone also requires planning permission from the Board. The Site is currently paved, partly fenced off and occupied by entertainment facilities and storage uses without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Shan Ha Road via a local track (**Drawing A-1, Plans A-2 and A-3**). According to the applicant, the proposal is for a real estate agency mainly to serve the nearby residents. Excavation of land (at a depth of about 0.225 m covering an area of about 16.65 m²) is proposed for provision of surface U-channel at the periphery of the Site. Plans showing the vehicular access leading to the Site, site layout, drainage proposal and extent of land excavation submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.3 The major development parameters of the application are summarised as follows:

Site Area	About 355 m ²
Total Floor Area (Non-domestic)	Not more than 230 m ²
No. and Height of Structure	1 for shop and services and toilet (4.5m, 1 storey)
No. of Parking Spaces	2 (for private cars) (5m x 2.5m each)
No. of Loading/ Unloading Space	Nil
Operation Hours	9:00 a.m. to 7:00 p.m. daily

1.4 In support of the application, the applicant has submitted an Application Form with attachments received on 4.1.2024 (**Appendix I**).

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 proposed shop and services use is temporary in nature and would not jeopardise the long-term planning intention of the “V” zone. It could benefit the nearby residents by meeting their demand for real estate agency;
- (b) the proposed use is not incompatible with the surrounding environment. Similar applications for shop and services have been approved by the Board in the vicinity of the Site; and
- (c) there will be minimal traffic, environmental and drainage impacts arising from the proposed 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. 31B) 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. For the GL portion, the requirements under TPB PG-No. 31B are not applicable.

4. Background

The Site is not subject to any active planning enforcement action. The inspection on 7.12.2023 revealed a suspected unauthorized structure on the Site with some furniture and office equipment observed. The Site is under monitoring.

5. Previous Application

The Site is not involved in any previous application.

6. Similar Applications

There are ten similar planning applications (No. A/YL-TYST/974, 998, 1043, 1113, 1115, 1134, 1188, 1219, 1222 and 1228) for various temporary shop and services with/without other uses within/straddling the subject “V” zone. All ten applications were approved by the Rural and New Town Planning Committee (the Committee) of the Board in the past five years 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. However, the planning permissions for five of them (No. A/YL-TYST/974, 998, 1113, 1115 and 1134) were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **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 (SH) 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-4)

8.1 The Site is:

- (a) accessible from Shan Ha Road to its northwest via a local track (**Plans A-2 and A-3**); and
- (b) paved, partly fenced off and currently occupied by entertainment facilities and storage uses without valid planning permission (**Plans A-2 to A-4**).

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

- (a) comprise predominantly village houses of Shan Ha Tsuen and residential structures intermixed with open storage/storage yards, car servicing workshops, parking of vehicles, unused land and vacant land/structures; and
- (b) except for an open storage yard to the further northeast of the Site, the remaining open storage/storage yards, car servicing workshops and parking

of vehicles 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 12.1.2024, the application was published for public inspection. During the statutory public inspection period, 82 public comments were received and all of them raise objections to the application based on one set of standard letter (**Appendix V**), on the grounds that the Site is a Tso/Tong's land under multiple ownership and the current applicant did not obtain consent from all relevant stakeholders for the proposed development at the Site.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of three years at the Site zoned "V" on the OZP, which is primarily for development of Small Houses by indigenous villagers. Whilst the proposed use is not entirely in line with the planning intention of the "V" zone, it could serve any such need for shop and services in the area. According to District Lands Officer/Yuen Long, there is currently no SH 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 jeopardise the long-term development of the area.
- 11.2 The surrounding area comprises predominantly village houses and residential structures intermixed with open storage/storage yards, car servicing workshops and parking of vehicles (**Plan A-2**). The proposed use is generally not incompatible with the surrounding area.
- 11.3 Concerned government departments, including the 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 from traffic, environmental, fire safety and drainage perspectives. The applicant has also provided justifications for the need of excavation of land for provision of drainage facilities at the Site, and the extent and scale of which are not significant. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimise any potential environmental impact on the surrounding areas and that the planning permission does not condone any other uses not covered by the application but currently existing on the Site.

- 11.4 Given that ten similar applications within/straddling the subject “V” zone have been approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 There are 82 public comments objecting to the application during the statutory public inspection period as summarised in paragraph 10 above. Regarding the villagers’ concerns in relation to the occupation of Tso/Tong’s land without consent, the applicant has complied with the requirements as set out in the TPB PG-No. 31B by posting site notice and sending the notice to the Ping Shan Rural Committee by registered post. Should the application be approved, the applicant is also advised to resolve any land issues with the concerned owner(s) of the Site and liaise with the locals to address their concerns.

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 1.3.2027. 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 1.9.2024;
- (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 1.12.2024;
- (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 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 1.9.2024;
- (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 1.12.2024;
- (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 Members' reference:

the proposed development 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 4.1.2024
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Location Plan with Vehicular Access
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Drawing A-4	Excavation Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2024**