

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/284

<u>Applicant</u>	: Charter Triumph Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 1865 S.C. and 1865 RP in D.D. 120 and adjoining Government land (GL), Tai Shu Ha Road East, Yuen Long, New Territories
<u>Site Area</u>	: 460m ² (about) (including GL of about 243m ² or 52.8%)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/25 (currently in force) Draft Yuen Long OZP No. S/YL/24 (at the time of submission)
<u>Zoning</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of 6 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 6 years (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Shop and Services’ use, except on the ground floor of a New Territories Exempted House (NTEH), is under Column 2 that requires planning permission from the Town Planning Board (the Board). The Site is currently partly occupied for a temporary office (**Plans A-2 to A-4**).
- 1.2 Majority of the Site is the subject of a previous application No. A/YL/265 for proposed temporary shop and services which was approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 22.1.2021 for a period of 6 years. Compared with the last application (No. A/YL/265), the current application is submitted by the same applicant for the same use at the Site with an addition of 55m² GL. The additional site area with 55m² of gross floor area (GFA) is proposed to be used as water tank and pump room for fire service installations (FSIs).

- 1.3 According to the applicant, the proposed development comprises 2 structures, one structure with two-storey for a retail shop for selling hardware accessories and the other structure with one-storey for ancillary water tank and water pump with a total GFA of not more than 815m². A proposed layout plan and a proposed drainage plan submitted by the applicant are shown in **Drawings A-1 to A-2** respectively.
- 1.4 A comparison of the major development parameters of the current application and the previously approved application is summarised as follows:

Major Development Parameters	Previous Approved Application (A/YL/265) (a)	Current Application (A/YL/284) (b)	Difference (b) - (a)
Proposed Use	Proposed Temporary Shop and Services for a Period of 6 Years	Proposed Temporary Shop and Services for a Period of 6 Years	--
Site Area	About 405m ² (including about 188m ² of GL)	About 460m ² (including about 243m ² of GL)	+55m ²
GFA	About 760m ²	Not more than 815m ²	+55m ²
No. of Structure(s)	1 (for shop and services)	2 (for shop and services, and water tank and pump room)	+1
No. of Storeys	2 storeys including Carport (7m)	1-2 storeys including Carport (6-7m)	--
No. of Parking Space(s)	2 (for private cars)	2 (for private cars)	--
No. of Loading / Unloading Space	1 (for light goods vehicle)	1 (for light goods vehicle)	--
Operation Hours	9:00a.m. to 7:00p.m. from Mondays to Sundays including public holidays	9:00a.m. to 7:00p.m. from Mondays to Sundays including public holidays	--

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 9.11.2021 **(Appendix I)**
 - (b) Further Information (FI) providing responses to departmental comments with a layout plan showing run-in/out arrangement and updated justifications received on 15.12.2021 **(Appendix Ia)**

- (c) FI clarifying the current use of the Site received on 16.12.2021 (Appendix Ib)

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 at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the “V” zone.
- (b) The nature and form of development is not incompatible with the surrounding environment. The proposed development is a shop which would benefit the villagers in the vicinity.
- (c) Similar planning application (i.e. No. A/YL/250¹) has been approved in the proximity of the Site.
- (d) Only light goods vehicle (not exceeding 5.5 tonnes) will be allowed to enter/park at the Site. The applicant has submitted the estimated traffic generation to support the application and to demonstrate that the actual traffic generation and attraction would be insignificant. The applicant has also submitted drainage plan to support his application. In view of the nature, scale and form of the development, the proposed development would not generate adverse impact to the surrounding environment.
- (e) Compared with the approved application (i.e. No. A/YL/265) on the same subject site, the additional site area will be solely used as water tank and pump room for FSIs.

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 notice to Shap Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. **Previous Application**

- 4.1 Majority of the Site is involved in one previous planning application No. A/YL/265 for the same use (i.e. Proposed Temporary Shop and Services), which was approved with conditions by the Committee on 22.1.2021 for a period of 6 years mainly on the considerations that the proposed development

¹ Application No. A/YL/250 for temporary shop and services for a period of 6 years was approved by the Committee on 16.11.2018. However, the application site is situated within another “V” zone on the OZP.

was considered not incompatible with the surrounding uses, there was no Small House application under processing at the Site, approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone, no significant adverse traffic, environmental, drainage, sewerage and landscape impacts were anticipated, and no adverse comment from concerned government departments. Details of the previous application are summarised at **Appendix II** and the location is shown on **Plan A-1**.

- 4.2 Compared with the last application, the current application is submitted by the same applicant for the same use at a larger site with similar layout.

5. Similar Application

There is no similar application within the same “V” zone on the OZP.

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

- 6.1 The Site is:

- (a) currently hard-paved and used for a temporary office; and
- (b) accessible from Tai Shu Ha Road East.

- 6.2 The surrounding areas have the following characteristics:

- (a) generally residential use in nature intermixed with vehicle parks, workshops, food factory and open storage yards;
- (b) to its north and west are intermixed with temporary structures, parking of vehicles and clusters of low-density residential settlements;
- (c) to its immediately west are Tai Shu Ha Road East and West and a nullah;
- (d) to its east is Yuen Long Hang Heung Cake Factory²; and
- (e) to its further south across Shap Pat Heung Road are the proposed Po Leung Kuk Youth Hostel which is under construction, a proposed RCHE³, parking of vehicles and some residential settlements.

7. Planning Intention

The planning intention of “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily

² It is the subject of an approved planning application No. A/YL/263 for proposed social welfare facility for a residential care home for the elderly (RCHE), which was approved with conditions by the Committee on 5.2.2021.

³ The proposed RCHE, under application No. A/YL/261, was approved by the Committee on 15.9.2020 for minor relaxation of building height restriction.

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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views on the application and/or the public comments received are summarised as follows:

Land Administration

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

- (a) The Site comprises GL and Old Schedule Agricultural Lots 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) No permission is given for occupation of GL (about 243m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) There is no Small House application currently under processing at the Site.
- (d) Should planning approval be given to the subject planning application, the lots owners will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicant has to exclude the GL portion from the Site or apply for a direct grant of Short Term Tenancy for use of the Site. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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 LandsD.

Traffic

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

- (a) The land status of the access road/path/track/ run-in/out leading to the Site from Tai Shu Ha Road East shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for maneuvering of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) The proposed access arrangement of the Site from Tai Shu Ha Road East should be commented and approved by TD.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Shu Ha Road East.
- (c) Should the application be approved, the requirements on submission and provision of a run-in/out proposal for the development to his satisfaction should be included in the planning permission. The applicant should also provide the run in/out at Tai Shu Ha Road East in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement to the satisfaction of HyD.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Landscape

8.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) According to the aerial photo of 2021 and site photos taken on 17.11.2021, large portion of the Site is hard paved with temporary structures, and self-seeded vegetation is found on the eastern corner within the Site. No tree or other significant vegetation is observed within the Site.
- (b) The Site is located in an area of miscellaneous rural fringe landscape predominated by open storage yards, temporary structures, parking areas, village houses and tree clusters. The proposed development is considered not incompatible with the landscape character of the surrounding area. Further significant

landscape impact on existing landscape resources within the Site arising from the proposed development is not anticipated.

Drainage

8.1.5 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. The applicant should be reminded of the detailed comments at **Appendix IV**.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant (i) the submission of a drainage proposal, and (ii) the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

8.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to 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. The applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Environment

8.1.8 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 Sites” (the COP).

Geotechnical

8.1.9 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no adverse comment on the captioned application.
- (b) The applicant is reminded of the detailed comments at **Appendix IV**.

District Officer’s Comments

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

His office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Project Manager (West), CEDD (PM(W), CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

9. Public Comments Received During Statutory Publication Period

On 16.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 3 public comments from individuals were received with 2 objecting and 1 expressing views on the application (**Appendices III-1 to III-3**). The objecting comments state that the Government should conduct road improvement works to alleviate traffic congestion of the area before approval of relevant planning applications, and the proposed commercial activities to be developed within an area dominated by residential development would lead to environmental pollution and fire risks, which would affect the safety of the residents nearby and quality of living environment. A commenter expresses views that government land should be used for community purpose instead of allocating to villagers for other uses.

10. Planning Considerations and Assessments

10.1 The application is for proposed temporary shop and services for a period of 6 years within the “V” zone on the OZP. The planning intention of the “V” zone is primarily for development of Small Houses by indigenous villagers. 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. Although the proposed use is not entirely

in line with the planning intention of the “V” zone, according to the applicant, the proposed shop is intended to serve the villagers in the vicinity. According to DLO/YL of LandsD, there is currently no Small House application under processing at the Site. In this regard, approval of the proposed use on a temporary basis would not frustrate the long-term planning intention of the “V” zone.

- 10.2 The proposed development, comprising 2 structures with a total floor area of not more than 815m², is not incompatible with the surrounding uses which are predominantly residential uses intermixed with parking of vehicles and temporary structures.
- 10.3 Relevant government departments including C for T, DEP, CE/MN, DSD, CTP/UD&L, PlanD have no objection to or adverse comment on the application. Significant adverse traffic, environmental, drainage, sewerage and landscape impacts on the surrounding areas are not envisaged. Appropriate approval conditions are suggested in paragraph 11.2 below to minimise any possible environmental nuisances on the surrounding areas or to address the technical requirements of the concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the COP in order to minimise any potential environmental impact.
- 10.4 The Site is subject to a previous application (No. A/YL/265) submitted by the same applicant for the same use covering a majority of the Site. The previous application was approved with conditions by the Committee on 22.1.2021. While the planning permission is still valid, according to the applicant, additional site area of 55m² is required to be used as water tank and pump room for FSIs in order to comply with relevant approval conditions. Compared with the previous approval, the additional structure with a building height of 6m is relatively small scale and significant impact is not anticipated. Approval of the current application is in line with the Committee’s previous decision.
- 10.5 There are 3 public comments received during the statutory publication period with 2 objecting to the application as mentioned in paragraph 9 above. Planning considerations and assessments in paragraphs 10.1 to 10.4 above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments as mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 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 6 years until 24.12.2027. 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) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) the submission of run-in/out proposal for the development within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 24.6.2022;
- (d) in relation to (c) above, the provision of the run-in/run-out for the development within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 24.9.2022;
- (e) the submission of a 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 24.6.2022;
- (f) in relation to (e) above, the implementation of the 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 24.9.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 24.6.2022;
- (i) in relation to (h) 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 24.9.2022;
- (j) if any of the above planning condition (a), (b) or (g) 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
- (k) if any of the above planning condition (c), (d), (e), (f), (h) or (i) 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

- 11.3 The recommended advisory clauses are attached at **Appendix IV**. 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 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.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application Form with attachments received on 9.11.2021
Appendix Ia	FI received on 15.12.2021
Appendix Ib	FI received on 16.12.2021
Appendix II	Previous Application covering the Site
Appendices III-1 to III-3	Public Comments received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**