

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL/299**

<b><u>Applicant</u></b>	:	Mr. Tsang Kam Tong represented by Prosper Consultant Engineering Company Limited
<b><u>Site</u></b>	:	Lot 4581 RP (Part) in D.D. 116, Tai Kei Leng, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 146 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Draft Yuen Long Outline Zoning Plan (OZP) No. S/YL/26 ( <i>currently in force</i> ) Approved Yuen Long OZP No. S/YL/25 ( <i>at the time of submission</i> )
<b><u>Zoning</u></b>	:	“Open Space” (“O”) [No change to the zoning of the application site on the current OZP]
<b><u>Application</u></b>	:	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 six years. According to the Notes of the OZP for the “O” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a two-storey structure for residential use and partly vacant (**Plans A-1 to A-4**).
- 1.2 The Site is accessible via a local track leading from Tai Kei Leng Road to its south (**Plan A-2**). According to the applicant, the proposed temporary shop and services for retail of frozen commodities involves a two-storey structure (7.5m) with a total gross floor area (GFA) of 57.96m<sup>2</sup>. The site layout plan submitted by the applicant is shown on **Drawing A-2**.

- 1.3 Part of the Site is the subject of a previous application No. A/YL/233 for temporary shop and services (real estate agency, book shop and ancillary site office) for a period of 6 years approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2017. The planning permission is still valid until 22.9.2023 (details at paragraph 4 below) (**Plan A-1**).
- 1.4 A comparison of the major development parameters between the current application and the previously approved application No. A/YL/233 is summarised as follows:

<b>Major Development Parameters</b>	<b>Last Approved Application No. A/YL/233 (a)</b>	<b>Current Application No. A/YL/299 (b)</b>	<b>Difference (b) – (a)</b>
Applied Use	Proposed Temporary Shop and Services (Real Estate Agency, Book Shop and Ancillary Site Office) for a Period of 6 Years	Proposed Temporary Shop and Services for a Period of 6 Years	Different type of shop and services uses
Site Area	About 303.7 m <sup>2</sup>	About 146 m <sup>2</sup>	-157.7 m <sup>2</sup> (-51.9%)
Total GFA (Non-domestic)	About 248.9 m <sup>2</sup>	About 57.96 m <sup>2</sup>	-190.94 m <sup>2</sup> (-76.7%)
No. of Structure(s)	3	1	-2 (-66.7%)
No. of Storey(s)	1 – 2 storeys (2.5 – 7.5m)	2 (7.5m)	---
Operation Hours	9 a.m. to 8 p.m. daily	11 a.m. to 11 p.m. daily	--- (lengthened)

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

- (a) Application Form with attachments received on 24.11.2022 (**Appendix I**)
- (b) Supplementary information of 1.12.2023 with a replacement page of the Application Form (**Appendix Ia**)
- (c) Further Information (FI) received on 3.1.2023 \* (**Appendix Ib**)
- (d) FI received on 4.1.2023 \* (**Appendix Ic**)

*[\*exempted from publication and recounting requirements]*

## **2. Justifications from the Applicant**

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

- (a) the applicant intends to use the Site to sell frozen commodities; and
- (b) there is no vehicular access to the Site and only trolleys will be used for loading/unloading of goods.

### **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 obtaining the consent of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Previous Application**

- 4.1 The Site forms the southern part of a previous application No. A/YL/233 (which covers a larger site) for temporary shop and services (real estate agency, book shop and ancillary site office) for a period of six years, which was approved with conditions by the Committee on 22.9.2017. The major considerations were that the proposed use provides real estate agency and book shop services to serve the demand in the area; the applied use is not incompatible with the surrounding uses; and no adverse traffic, environmental, drainage, fire safety, and landscape impacts are anticipated. All time-limited approval conditions have been complied with. The application is still valid until 22.9.2023. Details of the application are summarised at **Appendix II** and the location of the application site is shown on **Plan A-1**.
- 4.2 Compared with the previous approved application No. A/YL/233, the current application is for temporary shop and services use at a smaller site with different development parameters, and submitted by a different applicant. The layout plan of the current application is shown on **Drawing A-2**.

### **5. Similar Applications**

There have been three similar applications (No. A/YL/241, 258 and 288) for various shop and services uses for periods of three to six years within the same “O” zone on the OZP approved by the Committee since 2017. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

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

- 6.1 The Site is:
  - (a) currently partly occupied by a 2-storey structure for residential use and partly vacant; and
  - (b) accessible via a local track leading from Tai Kei Leng Road to its south (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and northeast are some residential structures, a car park, an open storage yard for construction materials, some cultivated farmland and unused/vacant land. To its further north are two residential developments, namely “Serenio Verde” and “The Reach”, on land zoned “Residential (Group B)” ;
- (b) to its east and southeast across the local track are some residential structures, an eating place, a car park and vacant/unused land. To its further east and southeast are an open storage yard for construction materials, a bee farm and a car park;
- (c) to its south and southwest are some residential and vacant structures, two car servicing sites covered by valid planning applications (No. A/YL/241 and 288), real estate agencies, office, barbecue site and some car washing/servicing workshops; and
- (d) to its west is an open-air car park.

## **7. Planning Intention**

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

## **8. 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 IV** and **V** respectively.

## **9. Public Comments Received During Statutory Publication Period**

On 2.12.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals objecting the application (**Appendices VI-1 and VI-2**). The commenters object to the application mainly on the grounds of environmental nuisance, fire risk and safety concerns, and living quality of nearby residents, and query about the time allowed for compliance of approval conditions in the last application.

## **10. Planning Considerations and Assessments**

- 10.1 The application is for proposed temporary shop and services for a period of six years at the Site zoned “O” on the OZP. Although the proposed use is not in line with the planning intention of the “O” zone, the proposed development could provide the shop and services to meet any such need in the area. DLCS also advises that there is no plan to develop the Site into public open space at present. As such, approval of the

application on a temporary basis would not jeopardise the long-term planning intention of the “O” zone.

- 10.2 The proposed development comprises a two-storey structure (7.5m high) with a total GFA of about 57.96m<sup>2</sup>. It is considered that the proposed scale and use are not incompatible with the surrounding uses, which comprises mainly residential uses and village houses intermixed with car parks, car serving workshops, eating place and a barbecue site.
- 10.3 There is no adverse comment from concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. Adverse traffic, environmental, sewerage, fire safety and drainage impacts on the surrounding areas are not envisaged. There has been no substantiated environmental complaint concerning the Site received in the past three years. Relevant approval conditions are recommended in paragraph 11.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will be reminded that the proposed temporary shop and services will also need to comply with all the relevant requirements for application of a licence as required by the licensing authority and relevant pollution control ordinance so as to minimise any potential environmental nuisance to the surroundings.
- 10.4 The Site is the subject of a previous application (No. A/YL/233) for the same use covering a larger site area, and all the time-limited approval conditions have been complied with. Moreover, there are three similar approved applications for various temporary shop and services uses in the same “O” zone. Approval of the current application is in line with the Committee’s previous decision.
- 10.5 There were two public comments received objecting to the application as summarised in paragraph 9 above. The planning considerations and assessments in the 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 13.1.2029. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) the submission of 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 13.7.2023;

- (b) in related to (a) 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 13.10.2023;
- (c) in related 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 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 13.7.2023;
- (e) in relation to (d) above, the implementation of 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 13.10.2023;
- (f) if any of the above planning condition (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if the above planning condition (a), (b), (d) or (e) is not complied with by the above 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 attached at **Appendix V**.

- 11.3 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 "O" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. 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 reasons for rejection should be given to the applicant.

**13. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 24.11.2022
<b>Appendix Ia</b>	Supplementary information received on 1.12.2022
<b>Appendix Ib</b>	FI received on 3.1.2023
<b>Appendix Ic</b>	FI received on 4.1.2023
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendices VI-1 and VI-2</b>	Public Comments
<b>Drawing A-1</b>	Lot Index Plan
<b>Drawing A-2</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2023**