

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/863

<u>Applicant</u>	: Mr. Tang Chi Fung and Mr. Tang Sun Choi represented by PlanPlus Consultancy Limited
<u>Site</u>	: Lots 339 S.A and 339 S.B in D.D. 109, Kam Tin South, Yuen Long
<u>Site Area</u>	: About 490m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for temporary shop and services (real estate agency) for a period of 3 years. According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is used as the applied use without planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicants, the development involves three single-storey structures with building height of 2.5m to 3m and total floor area of about 54m² for office, lumber room and temporary toilet. One private car parking space and one loading/unloading bay for light goods vehicle will be provided in the Site. The development intends to provide real estate agency services to the residents in Kam Sheung Road area. The operation hours will be between 9:00 a.m. and 9:00

p.m. daily, including public holidays. The Site is accessible by a footpath to Kam Sheung Road and Kam Po Road and vehicular access connecting Kam Sheung Road. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with planning statement received on 7.10.2020 (Appendix I)
 - (b) Further Information (FI) received on 26.11.2020 in response to departmental comments (Appendix Ia)
[Not exempted from publication requirement]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the planning statement and FI at **Appendices I and Ia**. They can be summarized as follows:

- (a) The development is temporary in nature and conforms to the planning intention of the OZP. It is compatible with the surroundings in terms of nature and scale. Nuisance associated with air quality, noise and traffic to the nearby residents is not anticipated. The temporary toilet inside the Site will be cleaned and maintained by the operator. The estimated traffic generation is minimal and no adverse impact on Kam Sheung Road is anticipated.
- (b) The development will benefit the surrounding neighbourhood which mainly consists of residential use. It will also serve the additional population in the planned residential developments in Kam Tin South. There is a genuine need of the applied use. Also, similar shop and services use in the “V” zone were approved in the same OZP.
- (c) The Small House application submitted by the applicants at the Site is still in its early stage. The proposed real estate agency is temporary in nature. The applicants will implement the Small House upon the approval of its application by the Lands Department.

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not the subject of any active planning enforcement case.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Applications**

6.1 There are eight similar applications for temporary shop and services use (real estate agency and martial art goods retail store) within the same and adjoining “V” zones on the OZP. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

6.2 All the applications were approved with conditions by the Committee for a period of 3 years between 2010 and 2018 mainly for the reasons that approval of the application on a temporary basis would not jeopardize the planning intention of the “V” zone; it was not incompatible with the surrounding land uses; the development could provide service to serve some of the needs of the local residents; and relevant departments had no adverse comment. However, the planning permission of application No. A/YL-KTS/648 was revoked due to non-compliance with planning conditions.

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

7.1 The Site is:

- (a) currently paved with 3 structures which are used for the applied use without planning permission; and
- (b) accessible via a footpath connecting Kam Sheung Road and Kam Po Road and a vehicular access connecting Kam Sheung Road.

7.2 The surroundings are rural in character intermixed with low-rise residential structures/dwellings, shop and services, eating place, indoor children playground, parking of vehicles and unused land:

- (a) to its immediate east, north and south are low-rise residential structures/dwellings. A real estate agency and parking of vehicles are found in the further north along Kam Sheung Road; and

- (b) to its west across a footpath is a cluster of shop and services (i.e. The Richfield) with an eating place and children indoor playground. To its northwest is unused land.

8. Planning Intention

The planning intention of the “V” 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 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 ground floor of a New Territories Exempted House (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 are summarized as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contain 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 application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. 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 the LandsD.

- (c) There are two Small House applications currently under processing at the Site and no approved Small House applications at the Site.

Traffic

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

- (a) He has no comment on the application from the traffic engineering perspective.
- (b) Should the application be approved, the condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (b) If the proposed pedestrian access arrangement to the Site is agreed by TD, the applicants should be responsible for any modification of the existing street furniture for the proposed pedestrian access. The proposed modification works should be submitted to TD/HyD for comments before commencement of the modification work.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

- 9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

It is noted that the Site falls within the area of influence (AOI) of the proposed Northern Link (NOL), which is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within the AOI may be required to be vacated at the time for the construction of the NOL and subject to nuisance, such as noise and vibration of the proposed NOL. He has no objection in principle to the application from the development point of view of the NOL, provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of NOL.

- 9.1.5 Comments of Chief Estate Surveyor/Railway Development, LandsD (CES/RDS, LandsD):

The Site falls within “RDS 2014 NOL and Kwu Tung Station Limit of Area of Influence”. Provided that RDO of HyD has no objection against the application and the proposed development would not pose obstacles to the acquisition of land for implementation of the NOL project, he has no strong view against the application.

Environment

- 9.1.6 Comments of the Director of Environmental Protection (DEP):

There was no environmental complaint concerning the Site received in the past 3 years. The applicant is 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” issued by DEP to minimize any potential nuisances.

Drainage

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

- (a) He has no objection in-principle to the development from the public drainage point of view.

- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal, and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Fire Safety

9.1.8 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comment on unauthorised building works, provision of access, temporary or licenced structures are at **Appendix IV**.

Environmental Hygiene

9.1.10 Comments of the Director of Food and Environment Hygiene (DFEH):

For any waste generated from the such activities or operations, the applicant should arrange disposal properly at her own expenses. Such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.

District Officer's Comments

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

He has not received any locals' comments on the application and he has no comment from departmental point of view

9.2 The following Government departments have no comment on/ no objection to the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 16.10.2020 and 11.12.2020, the application was published for public inspection. During the statutory publication period, six public comments were received from a Yuen Long District Councillor, Owner's Committee of Super King Court and individuals (**Appendices III-1 to III-6**) objecting to the application mainly on the grounds that commercial operation in residential area will affect the rural living environment and ecology; the proposed development is too close to residential neighbourhood; there is sufficient real estate agency in Kam Tin Shi to meet the demand; the Site should be retained for building Small House; the temporary toilet is not necessary and will cause hygiene problem; the development will cause pedestrian safety problem; and the parking and loading/unloading spaces at the Site is not necessary and will cause pedestrian safety and noise nuisance.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services (real estate agency) for a period of 3 years in “V” zone. The planning intention of the “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 intended for development of Small Houses by indigenous villagers. The applied use is not entirely in line with the planning intention of the “V” zone. For the Site, DLO/YL, LandsD advises that there are two Small House applications under processing, and no Small House has been approved. The applicant stated he will implement the Small House development once they are approved by LandsD. It is considered that approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “V” zone.
- 11.2 The applied use is considered not incompatible with the surrounding areas which are intermixed with residential structures/dwellings, shop and services and unused land. According to the applicant, the development is intended to serve the local residents.
- 11.3 In view of its nature and the small scale of the operation, the development is not expected to cause significant adverse environmental impact on the surrounding areas. Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. The applicant will also be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP. The technical requirements of C for T, CHE/NTW of HyD, CE/MN of DSD and D of FS could be addressed by imposing approval conditions in paragraph 12.2 below.
- 11.4 The Site is not the subject of any previous application. There are eight similar applications for temporary shop and services use in the same and adjoining “V” zones approved with conditions by the Committee between 2010 and 2018 (paragraph 6 and **Plan A-1** refer). Approval of the application is in line with the decision of the Committee on the similar applications.
- 11.5 Six public comments were received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments above are relevant.

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 temporary shop and services (real estate agency) for a period of 3 years.
- 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 22.1.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;**
- (c) 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 22.7.2021;
- (d) in relation to (b) above, the implementation of 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 22.10.2021;
- (e) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 22.7.2021;
- (g) in relation to (e) 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 22.10.2021;
- (h) the submission of modification works proposal of the existing public footpath and associated street furniture at the proposed entrance to the west of the Site 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 22.7.2021;

- (i) in relation to (g) above, the implementation of the modification works proposal of the existing public footpath and associated street furniture at the proposed entrance to the west of the Site 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 22.10.2021;
- (j) if any of the above planning conditions (a) or (d) 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 conditions (b), (c), (e), (f), (g) or (h) 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 development is not in line with the planning intention of the "V" zone which 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 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 intentions, 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 plans received on 7.10.2020
Appendix Ia	FI received on 26.11.2020
Appendix II	Similar applications
Appendices III-1 to III-6	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**