

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/238

- Applicant** : Mr. CHOW Yuet-fai
- Site** : Lot 1289 S.F RP in D.D. 114, Kam Sheung Road, Shek Kong, Yuen Long
- Site Area** : About 90m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Temporary Office with Ancillary Storage Area and Car Parking for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary office with ancillary storage area and car parking for a period of 3 years at the application site (the Site). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is the subject of two previous planning applications No. A/YL-SK/183 and A/YL-SK/203 submitted by the same applicant as the current application for the same applied use. Both applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 5.4.2013 and 12.12.2014 respectively. For the last approved application No. A/YL-SK/203, all approval conditions have been complied with and the planning permission lapsed on 13.3.2018.
- 1.3 According to the applicant, two container-converted structures (2 storeys in 6m high) with a total floor area of about 70m² are erected on-site for office and storage uses. Two covered parking spaces (about 28m²) and one parking space for light goods vehicle are provided at the Site. The operation hours are from 9:00a.m. and 6:00p.m. on Mondays to Fridays and no operation on Saturdays, Sundays and public holidays. The Site is accessible through two ingress/egress

points located at the southern and northern boundary of the Site via an adjoining local track to Kam Sheung Road. The floor plans and vehicular access plan submitted by the applicant are shown at **Drawings A-1 to A-3**.

- 1.4 A comparison of the major development parameters of the current application and the previously approved application No. A/YL-SK/203 is given in the following table:

Major Development Parameters	Previously Approved Application No. A/YL-SK/203 (a)	Current Application (b)	Differences (b) – (a)
Site Area	About 90m ²		-
Total Floor Area	68m ²	98m ²	+30m ²
No. of Structure	1	2	+1
Building height	2.4m	6m	+3.6m
Parking spaces for private car	2	2	-
Parking space for light goods vehicle	1	1	-

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

- (a) Application form with plans received on 5.6.2018 **(Appendix I)**
- (b) Further Information (FI) received on 3.7.2018 in response to departmental comments **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
- (c) FI received on 17.7.2018 in response to departmental comments **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI received on 20.7.2018 in response to departmental comments **(Appendix Ic)**
(accepted and 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 Part 9 of the application form and FIs in **Appendices I and Ia**. They can be summarized as follows:

The applied use is for a temporary office of a construction company that provides maintenance, redecoration and minor renovation works. The ancillary storage area is for the storage of tools, small equipments and materials of the company. The car parking spaces provided at the Site are for staff uses and the light goods vehicle of the company. Traffic impact on local access road and Kam Sheung Road is minimal.

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

The applicant is not the “current land owner” but has complied with the requirement 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 Board Ordinance (TPB PG-No. 31) by having obtained the consent from the lot owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The planning permission for office use at the Site granted on 13.3.2015 has expired. The use of the Site for office use without a valid planning permission constitutes an unauthorized development under the Town Planning Ordinance (TPO). Should there be sufficient evidence to prove the use on the Site is an unauthorized development under the TPO, appropriate enforcement action will be taken. The Site is not the subject of active enforcement cases and there is currently no enforcement action against it.

5. Previous Applications

The Site is involved in two previous planning applications No. A/YL-SK/183 and 203 for the same applied use submitted by the same applicant as the current application. They were approved with conditions by the Committee on 5.4.2013 and 13.3.2015 respectively mainly for the reasons that approval of the application on a temporary basis would not frustrate the planning intention of the “V” zone; there was no Small House application at the site; the development was considered not incompatible with the surrounding environment; no significant adverse environmental impact to the surrounding area is envisaged; relevant Government departments had no objection to or adverse comment on the application and approval conditions could be imposed to address the technical concerns. However, application No. A/YL-SK/183 was revoked on 5.10.2013 due to non-compliance with approval conditions related to the submission of landscape and fire services installations (FSIs) proposals. For the last approved application No. A/YL-SK/203, all approval conditions have been complied with and the planning permission lapsed on 13.3.2018. When compared with the last approved application, the current application has the same site area/boundary and similar layout, with an increase in total floor area from 68m² to 98m². Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

6.1 There are 11 similar applications (No. A/YL-SK/152, 160, 164, 167, 169, 185, 195, 204, 205, 214 and 234) within the same and adjoining “V” zones and all of

them had been approved by the Committee. Details of the applications are summarized in **Appendix III** and the locations of the applications are shown on **Plan A-1**.

- 6.2 Applications No. A/YL-SK/152, 160, 164, 167, 169, 185, 195, 204, 205, 214 and 234 for various shop and services uses with or without ancillary office were approved with conditions by the Committee for a period of 1 or 3 years on 8.5.2009, 28.1.2011, 18.11.2011, 20.1.2012, 15.6.2012, 3.5.2013, 8.11.2013, 12.12.2014, 27.2.2015, 22.4.2016 and 6.4.2018 respectively. These applications were approved mainly for the reasons that approval on a temporary basis would not frustrate the planning intention of the “V” zone; the proposed developments could provide service to serve the needs of the local villagers and neighbouring residential developments; there was no Small House application at the application sites; the developments were considered not incompatible with the surrounding environment; no significant adverse environmental impact to the surrounding area was envisaged; Government departments consulted had no objection to or adverse comment on the applications and approval conditions could be imposed to address the technical departmental concerns. However, the planning approvals under Applications No. A/YL-SK/152, 167, 169 and 195 were revoked on 8.3.2010, 28.1.2013, 15.12.2012 and 8.2.2015 respectively due to non-compliance with approval conditions.

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

- 7.1 The site is:
- (a) currently used for the applied use without valid planning permission; and
 - (b) abutting Kam Sheung Road to its south and is accessible through two ingress/egress points located at the southern and northern boundaries of the Site via an adjoining local track.
- 7.2 The surrounding areas are predominantly rural in character with a mixture of residential structures/dwellings, a car audio shop, a workshop, parking of vehicles, open storage/ storage yards, and vacant/unused land. Some of the uses are suspected unauthorized development subject to enforcement action by the Planning Authority;
- (a) to its east, north, west and southwest across Kam Sheung Road are the “V” zones covering To Uk Tsuen and Tse Uk Tsuen where there are a number of residential settlements, village houses and vacant/unused land; and
 - (b) to its south and southeast across Kam Sheung Road under “Agriculture” (“AGR”) zone are a car audio shop operated with valid planning permission under Application No. A/YL-SK/234, parking of vehicles, residential structures/dwellings and vacant/unused land.

8. Planning Intention

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. 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 New Territories Exempted House. 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 and public comments received 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 an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval from the Government.
- (b) Lot No. 1289 S.F RP in D.D. 114 is covered by Short Term Waiver (STW) No. 4127 to permit structures erected thereon for the purpose of “temporary office with ancillary storage area and car parking”.
- (c) The Site is accessible to Kam Sheung Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (e) There is no Small House application approved or under processing within the Site.
- (f) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions if there is any irregularities on site. Such application(s) 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 premium or fee, as may be imposed by the LandsD.

Traffic

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

- (a) Noting that the current application has similar layout as the previously approved application No. A/YL-SK/203, he has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, the approval 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 public road network via a section of local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. 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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD does not and will not maintain any access connecting the Site and Kam Sheung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

The applicant is advised to follow the relevant measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

Nature Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

He has no comment on the application from the nature conservation point of view as the Site is located in “V” zone and has been paved.

Drainage

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

- (a) He has no objection in principle to the planning application from the public drainage point of view given the Site only has an area of 90m².
- (b) The applicant should be reminded to provide his own drainage facilities to collect the runoff generated from the Site or passing through the Site, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities. The applicant should also be reminded to consult DLO/YL, LandsD and seek consent from the relevant owners for any works to be carried outside his lot boundary before commencement of the drainage works.

Water Supplies

9.1.7 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The developer shall bear the cost of any necessary diversion work affected by the development.
- (c) In case it is not feasible to divert the affected water mains, a Waterworks Reserve within 1.5 metres from the centerline of the water main shown on **Plan A-2** shall be provided to WSD.
- (d) No structure shall be built or materials stored within this Waterworks Reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.

- (e) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on **Plan A-2**.
- (f) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

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 FSI 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) If the existing structures are erected on leased land without approval of his department (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's

enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations B(P)R respectively.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

District Officer's Comments

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

He has no particular comment on the application. His office has received a comment from a Yuen Long District Councillor objecting to the application. The comment is also received by the Board during the public inspection period (**Appendix IV-5**).

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 12.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.7.2018, five public comments were received from a Yuen Long District Councillor, the indigenous village representatives of Sheung Tsuen and the Sheung Tsuen Village Committee (**Appendix IV-1 to 5**). The commenters object to the application mainly on the grounds that the development would increase road traffic and cause adverse traffic impact on the existing busy road. Also, the Site is located at a road bend and the vehicles enter/exit the Site would pose danger to the road users.

11. Planning Considerations and Assessments

11.1 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. Although the applied temporary office with ancillary storage area and car parking use is not in line with the planning intention of the “V” zone, there is no Small House application approved or under processing at the Site and DLO/YL of LandsD has no objection to the application. It is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “V” zone.

- 11.2 The applied use is considered not incompatible with the surrounding land uses which are rural in character predominated by residential structures/dwellings, a car audio shop, parking of vehicles and vacant/unused land. In view of its small scale and its location abutting Kam Sheung Road, the environmental nuisance generated by the development would unlikely be significant. Relevant departments consulted including C for T, DEP, CE/MN, DSD and D of FS have no adverse comment on the application. To minimize the possible environmental nuisance generated by the development, approval conditions restricting operation hours, types of vehicles used and workshop activities are recommended in paragraphs 12.2 (a) to (d) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact. Moreover, the technical requirements of D of FS could be addressed by approval conditions recommended in paragraph 12.2 (f) and (g) below.
- 11.3 The Site is subject to 2 previous applications No. A/YL-SK/183 and 203 for the same applied use submitted by the same applicant as the current application, which were approved with conditions by the Committee on 5.4.2013 and 13.3.2015 respectively for the reasons as stated in paragraph 5 above. For the last approved application No. A/YL-SK/203, all approval conditions have been complied with and the planning permission lapsed on 13.3.2018. Approval of the subject application is in line with the Committee’s previous decisions.
- 11.4 Five public comments objecting the application were received during the statutory public inspection period as stated in paragraph 10 above. In this regard, relevant departments including C for T do not have adverse comment on the application. The planning considerations and assessments above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments in paragraph 10 above, the Planning Department considers that the temporary office with ancillary storage area and car parking could be tolerated 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 3.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or 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;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of fire services 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 3.2.2019;
- (g) in relation to (f) 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 3.5.2019;
- (h) if any of the above planning condition (a), (b), (c), (d) or (e) 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;
- (i) if any of the above planning condition (f) or (g) 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; and
- (j) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

- 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 re-provisioning 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

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| Appendix I | Application form with plans received on 5.6.2018 |
| Appendix Ia | FI received on 3.7.2018 |
| Appendix Ib | FI received on 17.7.2018 |
| Appendix Ic | FI received on 20.7.2018 |
| Appendix II | Previous applications covering the Site |
| Appendix III | Similar applications within the same "V" and adjoining "V" zones on the OZP |
| Appendices IV-1 to IV-5 | Public comments received during the statutory publication period |
| Appendix V | Advisory clauses |

Drawing A-1	Layout Plan of upper deck
Drawing A-2	Layout Plan of lower deck
Drawing A-3	Vehicular Access 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
AUGUST 2018**