

RNTPC Paper No. A/TM-SKW/108
For Consideration by
the Rural and New Town
Planning Committee
on ~~24.7.2020~~ 1.9.2020

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/TM-SKW/108

- Applicant** : Mr. CHAN Yun Ping Danny
- Site** : Lot 638 RP in D.D. 375, So Kwun Wat, Tuen Mun, New Territories
- Site Area** : About 59.5 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/13
- Zoning** : “Village Type Development” (“V”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval under Application No. A/TM-SKW/98 for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to continue using the application site (the Site) for temporary shop and services (real estate agency) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP of the “V” zone, ‘Shop and Services’ use not on the ground floor of a New Territories Exempted House (NTEH) is under Column 2 which requires planning permission from the Town Planning Board (the Board). The Site is currently formed, mainly hard-paved and occupied by a single-storey converted container being used for the applied use with a valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site was involved in two previous applications (No. A/TM-SKW/7 and 98). The last application No. A/TM-SKW/98 submitted by the same applicant for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 11.8.2017. All approval conditions have been complied with. The planning permission is valid until 11.8.2020. Details of the previous applications are summarised at paragraph 6 below and at **Appendix III**.

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

Site Area	About 59.5m ²
Total Floor Area	About 7.5m ²
No. of Structure	1 (converted container for real estate agency)
Height of Structure	2.45m (1 storey)
Operation Hours	10:00 a.m. to 7:00 p.m. daily (including Sundays and public holidays)

1.4 According to the applicant, there is no change to the site layout and all parameters compared with the previous application (No. A/TM-SKW/98). The Site is accessible via So Kwun Wat Tsuen Road. In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 28.5.2020 **(Appendix I)**
- (b) Supplementary information (SI) received on 2.6.2020 providing revised lot index plan and layout plan **(Appendix Ia)**
- (c) Further Information (FI) received on 16.6.2020 and 17.6.2020 clarifying no change of use of the Site and enclosing the accepted fire service installation (FSI) proposal and the Certificates of FSI and Equipment *[The FI was accepted and exempted from publication and recounting requirements.]* **(Appendix Ib)**
- (d) FI received on 29.6.2020 clarifying the arrangement of toilet facilities *[The FI was accepted and exempted from publication and recounting requirements.]* **(Appendix Ic)**
- (e) FI received on 14.7.2020 regarding traffic generation *[The FI was accepted and exempted from publication and recounting requirements.]* **(Appendix Id)**

1.5 *In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.7.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application and the application is now scheduled for consideration by the Committee at this meeting.*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Id**. They can be summarised as follows:

- (a) The real estate agency will continue to serve the residents in So Kwun Wat and to operate from 10:00 a.m. to 7:00 p.m. daily including Sundays and public holidays.
- (b) The development proposal, parameters, layout and use are the same under the previous application No. A/TM-SKW/98.

- (c) As the employee will not drive to work, there is no trip generation. In terms of customers, maximum 2-3 trips per week will cause no effect to the nearby road. The arrangement to use the toilet facilities at the Small House on the adjoining Lot which is owned by the applicant would remain unchanged.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in two previous applications (No. A/TM-SKW/7 and 98). Details of the applications are summarised in **Appendix III** and the locations of the application sites are shown on **Plan A-1**.
- 6.2 Application No. A/TM-SKW/7 covering a larger site for temporary open storage of containers for a period of 12 months submitted by a different applicant was rejected by the Committee on 6.3.1998 on the grounds that the proposed development was not in line with the planning intention of the “V” zone; insufficient information was provided to demonstrate that the development would not have adverse traffic impact and noise impact; and the approval of the application would set an undesirable precedent for other similar applications.
- 6.3 The last application No. A/TM-SKW/98 for proposed temporary shop and services (real estate agency) was approved by the Committee for a period of 3 years on 11.8.2017 mainly on the grounds that approval of the temporary development would not jeopardise the long-term planning intention of the “V” zone; no land use incompatibility problem was expected; and no adverse departmental comments. All the approval conditions have been complied with and the planning permission is valid until 11.8.2020.
- 6.4 Compared with the last approved application (No. A/TM-SKW/98), the current application is submitted by the same applicant for the same use on the same site with the same development parameters and same layout.

7. Similar Applications

- 7.1 Within the same “V” zone, there are three similar applications (No. A/TM-SKW/79, 84 and 107) covering two sites for temporary shop and services uses. These applications were approved with conditions for a period of three years between 2012 and 2020 by the Committee.
- 7.2 Applications No. A/TM-SKW/79 and A/TM-SKW/84 were for proposed temporary shop and services (construction consultancy services) use with ancillary private vehicle park, and application No. A/TM-SKW/107 was for proposed temporary shop and services. These applications were approved by the Committee mainly on the grounds that approval of the temporary development would not jeopardise the long-term planning intention of the “V” zone; no land use incompatibility problem was expected; and no adverse departmental comments. Details of these applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1**. Applications No. A/TM-SKW/79 and A/TM-SKW/84 were revoked due to non-compliance with planning conditions.

8. The Site and Its Surrounding Areas (Plans A-1 to Plan A-4b)

8.1 The Site:

- (a) is formed, mainly hard-paved and occupied by a single-storey converted container for the applied use with valid planning permission under A/TM-SKW/98; and
- (b) is accessible via So Kwun Wat Tsuen Road (**Plan A-2**).

8.2 The surrounding areas have the following characteristics (Plans A-1 to A-3):

- (a) to its north are vacant land, residential dwellings and storage yards; to its further north is a vegetated hill slope zoned “Green Belt” (“GB”);
- (b) to its west are a village house with a restaurant on the ground floor, and a hard-paved and vacant site approved under application No. A/TM-SKW/107 for temporary shop and services use; to its further west are residential dwellings and a vehicle repair workshop;
- (c) to its east are residential dwellings and parking of vehicles; and
- (d) to its south across So Kwun Wat Tsuen Road, there is a construction site for small house developments and an area used for parking of vehicles.

9. Planning Intention

The planning intention of “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small House 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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site falls within Lot No. 638 RP in D.D. 375 (“the Lot”). The Lot is an Old Schedule Lot 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) A short term waiver is granted to the applicant to permit the erection of a single storey structure not exceeding the built-over area of 7.5m² and not exceeding the height of 2.45m on the Lot for Temporary Shop and Services (Real Estate Agency) uses.
- (c) The Site is accessible via a strip of Government land adjoining So Kwun Wat Tsuen Road. His office does not carry out maintenance works for the said Government land nor has granted any right-of-way over the Government land to the Site.
- (d) There is no outstanding Small House application on the Site.
- (e) In the event that planning permission is not given by the Board, the Government may consider terminating the Short Term Waiver (STW) concerned. The Lot owner is required to demolish and remove all structures and debris on the Lot at his own cost upon termination of the STW. The Government also reserves the right to take any enforcement action as may be considered appropriate regarding any unauthorised structures or extension to existing permitted structures erected on the Lot or any encroachment or unauthorised use of Government land.

Traffic

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

- (a) The Site is connected to the public road network via a section of a local access road which is not managed by his Department. The land status of the local access road should be checked with

LandsD. The management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

- (b) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed vehicular access (So Kwun Wat Tsuen Road) from So Kwun Wat Road to the Site is not and will not be maintained by HyD.
- (b) The proposed access arrangement should be commented and approved by TD.
- (c) He has no comment on the application from highways maintenance point of view.

Environment

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

- (a) He has no objection to the application.
- (b) It is noted that the toilet facilities and sewerage disposal will be provided in the adjacent Small House owned by the applicant.

Landscape

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

- (a) With reference to the aerial photo of 2019 (**Plan A-3**), it is observed that the Site is hard paved with an existing structure and without any vegetation within the Site. The Site is situated in an area of rural fringe landscape character. Significant change to the landscape character arising from the continued use of the application is not envisaged.
- (b) In view that the Site is not situated in a landscape sensitive zone and not facing any prominent public frontage, it is considered that a landscape condition is not required should the application be approved by the Board.

Drainage

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

- (a) In view that the application is for renewal of the previously approved application No. A/TM-SKW/98 for the same applied use, he has no objection in principle to the application from public drainage viewpoint.
- (b) The applicant is reminded that he is required to maintain his drainage facilities/system properly and rectify them if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of any damage and/or nuisance caused by failure of his facilities/system.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of the BA (not being a NTEH), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
 - (ii) Before any new building works (including containers/open shed as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) For UBW erected on leased land, enforcement action may be taken by the BA 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.
 - (iv) In connection with (ii) above, 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 respectively.

- (v) Formal submission under the BO is required for any proposed new works, including any temporary structures.
- (vi) Detailed comments will be made at the building plan submission stage.

Fire Safety

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

He has no objection in principle to the application subject to the existing FSI implemented on the Site being maintained in efficient working order at all times.

Electricity Supply

10.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no comment from the regulatory services perspective.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The parties concerned should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

10.1.10 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

- (a) He had distributed consultation letters to the locals concerned and understands that they would provide their comments (if any) to the Board direct.
- (b) His office currently provides ad-hoc maintenance to So Kwun Wat Tsuen Road located in the proximity to the Site. He has no specific comments on the application from maintenance point of view on the condition that the said village access will not be affected by the proposed application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO);
- (f) Commissioner of Police (C of P); and
- (g) Director of Food and Environmental Hygiene (DFEH).

11. Public Comments Received During the Statutory Publication Period

On 5.6.2020, the application was published for public inspection. During the statutory public inspection period, three public comments were received from one District Council member and two village representatives of So Kwun Wat Tsuen (**Appendix V**). The two village representatives indicated support to the application for reasons that the real estate agency would facilitate transaction and renting of properties; and no adverse environmental, hygiene and traffic impacts are envisaged. The District Council member objected to the application mainly on the grounds that approval of the application would set an undesirable precedent for similar planning applications for commercial uses in the village and cause disturbance to the villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary shop and services (real estate agency) for a period of three years at a site zoned “V” on the OZP. 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 for development of Small Houses by indigenous villagers. Commercial, community and recreational uses may be permitted on application to the Board. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, it could provide real estate services to serve any such demand in the area. There is currently no Small House application at the Site. Approval of the application on a temporary basis for a period of three years would not jeopardize the long-term planning intention of the “V” zone.
- 12.2 The Site is located in an area predominately rural in character with residential dwellings intermixed with other uses such as eating place, parking of vehicles and storage yards (**Plans A-2 and A-3**). The development under application is not incompatible with the surrounding land uses.
- 12.3 The application is generally in line with TPB PG-No. 34C in that there is no material change in planning circumstances since the previous temporary approval was granted; adverse planning implications arising from the renewal of the planning

approval are not envisaged; all conditions under the previous approval have been complied with; and the approval period sought is the same as the previous approval.

- 12.4 Relevant Government departments, including C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or adverse comment on the application. The applied use would unlikely generate significant adverse traffic, sewerage, drainage, landscape and environmental impacts on the surrounding areas. To minimise any possible nuisances and to address the technical requirements of concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 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.
- 12.5 The Committee has approved one previous application for the same use at the Site and three similar applications within the same “V” zone (**Appendix IV**). Approval of the application is in line with the Committee’s previous decisions.
- 12.6 There are three public comments (one objecting and two supporting) received as summarised in paragraph 11 above. The planning assessments and considerations in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the renewal of planning approval for temporary shop and services (real estate agency) for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the renewal shall be valid on a temporary basis for a period of 3 years, ~~and be renewed from 12.8.2020 until 11.8.2023~~. 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 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no structures within 7m from the western boundary of the Site, as proposed by the applicant, is allowed at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing fire service installations implemented on the Site should be maintained in an efficient working order at all times during the planning approval period;

- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period; and
- (f) if any of the above planning conditions (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.

[Approval conditions (a) and (b) are the same as the previous application No. A/TM-SKW/98, condition (c) is a new condition and conditions (d) and (e) have been revised to accord with the latest departmental comments, and the reinstatement clause is deleted.]

Advisory clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "Village Type Development" zone which is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 28.5.2020
Appendix Ia	Supplementary information received on 2.6.2020
Appendix Ib	FI received on 16.6.2020 and 17.6.2020
Appendix Ic	FI received on 29.6.2020
Appendix Id	FI received on 14.7.2020

Appendix II	Extract of Town Planning Board Guidelines No.34C on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG - No.34C)
Appendix III	Previous Application Covering the Site
Appendix IV	Similar Applications within the same “V” zone
Appendix V	Public Comments Received during the Statutory Publication Period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JULY-SEPTEMBER 2020**