

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/475

<u>Applicant</u>	:	Mr. WONG Hon Wing
<u>Site</u>	:	Lot 1293 RP (Part) in D.D. 117, Kiu Hing Road, Tai Tong, Yuen Long, New Territories
<u>Site Area</u>	:	272 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural purposes)
<u>Plan</u>	:	Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zonings</u>	:	“Village Type Development” (“V”) [Restricted to a 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 applicant seeks planning permission to use 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 for the “V” zone, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House (NTEH) is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a to A-4b**).
- 1.2 The Site was the subject of two previous applications (No. A/YL-TT/300 and 370) for the same applied use as the current application which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board each for a period of 3 years on 4.5.2012 and 8.1.2016 respectively. All the approval conditions of the last application had been complied with and the planning permission lapsed on 9.1.2019. Details of the previous applications are summarised in paragraph 5 and **Appendix II**. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the site layout and development parameters are largely the same.

- 1.3 According to the applicant, the proposal is intended to serve the local community. The development consists of five converted containers for real estate agency use. Plans showing the site layout and drainage proposal submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.4 The major development parameters of the last approved application and the current application are summarised as follows:

Major Development Parameters	Last Approved Application No. A/YL-TT/370 (a)	Current Application No. A/YL-TT/475 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years		--
Site Area	272 m ² (about)		--
Total Floor Area (Non-domestic)	72.6 m ²		--
No. and Height of Structures	5 (3.5m, 1 storey)		--
No. of Parking Spaces	2 (for private cars)	1 (for private cars)	-1 (-50%)
Operation Hours	9:00 a.m. to 8:00 p.m. daily		--

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 19.6.2019 (**Appendix I**)
 - (b) Supplementary Information received on 26.6.2019 (**Appendix Ia**) providing a Chinese version of the executive summary

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Executive Summary attached to the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The real estate agency is in line with the planning intention of the “V” zone as it could provide services for the local community. It is also compatible with the surrounding land uses comprising mainly village housing and low-rise residential developments and there are no similar services nearby.
- (b) The development will help meet the need for real estate services in the Tai Tong area. Besides, the Board has approved a previous application (No. A/YL-TT/370) at the Site, as well as similar business establishment within “V” zones in the Yuen Long district.
- (c) The development involves only real estate agency office and no adverse traffic, drainage, sewage, environmental and visual impacts on the surrounding areas are

envisaged.

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 notice of the application outside the Site and sending the notice to the Shap Pat Heung Rural Committee through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to planning enforcement action.

5. **Previous Application**

5.1 The Site was involved in two previous applications (No. A/YL-TT/300 and 370) both for temporary shop and services (real estate agency) which were approved with conditions each for a period of 3 years by the Committee on 4.5.2012 and 8.1.2016 respectively mainly on the consideration that there was no Small House application at the Site, and approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone, etc. All the approval conditions of the last application had been complied with and the permission lapsed on 9.1.2019. Details of the applications are summarised in **Appendix II** and the location of the sites are shown on **Plan A-1**.

5.2 Compared with the last application, the current application is submitted by the same applicant for the same applied use on the same site. The site layout and development parameters are largely the same.

6. **Similar Applications**

There is one similar application (No. A/YL-TT/320) for the same applied use at a site located to its further northwest in the same “V” zone. Application No. A/YL-TT/320 for temporary shop and services (real estate agency) was approved with conditions by the Committee for a period of 3 years on 21.2.2014 mainly on the same considerations as listed in Paragraph 5.1 above. The application was subsequently revoked due to non-compliance with approval condition on 21.1.2016. Detailed information of the application is at **Appendix III** and the location of the site is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Kiu Hing Road to its southeast via a stretch of

Government land (GL) (**Plan A-2**);

- (b) paved and partly fenced off; and
- (c) occupied by the applied use without valid planning permission.

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) predominately rural residential in nature intermixed with scattered parking of vehicles, eating places, latrine, pump house, open storage yards, construction site, vacant structures and vacant land;
- (b) there are residences nearby with the nearest one to the immediate northeast and southwest of the Site; and
- (c) the open storage yards and eating places in the vicinity of the Site are mostly suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

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 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.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised 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 of the Government.
- (b) Lot No. 1293 RP in D.D. 117 within the Site is covered by Short Term Waiver (STW) No. 3542 to permit structure(s) erected thereon for the purpose of ‘shop and services (real estate

agency)?.

- (c) The Site is accessible from Kiu Hing Road via GL. Her office does not provide maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) No Small House applications have been received or under processing within the Site.
- (f) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her department acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 her department.

Traffic

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

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

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of

any access connecting the Site and Kiu Hing Road.

Environment

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

The applicant is advised to follow the relevant mitigation measures and requirement in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) issued by the Environmental Protection Department to minimise any potential environmental nuisance.

Drainage

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

- (a) He has no objection in principle to the proposed development.
- (b) Based on the drainage proposal (**Drawing A-2**) enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-TT/370.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities and the submission of drainage records of the existing drainage facilities on the site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 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 (FSI) 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. In addition, the applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) 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

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

- (a) As there is no record of approval by the Building Authority 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) If the existing structures (not being a NTEH) are erected on leased land without the approval of the BD, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (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) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW under the BO. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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.
- (f) 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

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

Her office has not received any locals' comment on the application and she has no comment from departmental point of view.

9.2 The following government departments have no comment on 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 Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 28.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 19.7.2019, four public comments from the village representative of Tai Tong Tsuen, two Yuen Long District Councillors and the vice-chairman of the Shap Pat Heung Rural Committee (**Appendices IV-1 to 4 respectively**) were received. All four comments were made on the same standardised letter supporting the application on reasons that the development will help meet the demand for real estate services in the Tai Tong area.

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary shop and services (real estate agency) for a period of 3 years at a site zoned “V” on the OZP. Although the applied use is not entirely in line with the planning intention of the “V” zone, which is primarily intended for development of Small Houses by indigenous villagers, nevertheless, the proposed use is intended to serve the local community and could meet any such demand in the area. As advised by DLO/YL, LandsD, no Small House applications have been received/under processing within the Site. As such, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the area.
- 11.2 The Site abuts the major public road of Kiu Hing Road and is generally not incompatible with the surrounding uses which are predominantly rural residential in nature intermixed with scattered parking of vehicles, eating places and open storage yards, etc.
- 11.3 There is no adverse comment on the application from concerned government departments and significant adverse traffic, environmental, drainage and fire safety impacts on the surrounding area are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of the concerned departments and to minimise any possible environmental concerns arising from the proposal. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the Code of Practice in order to minimise any potential environmental impact.
- 11.4 Given that two previous applications and one similar application for the same shop and services (real estate agency) use have been approved within the same

“V” zone, approval of the subject application is considered in line with the Committee’s previous decisions.

11.5 There are four supporting public comments received during the statutory publication period as summarised in paragraph 10.

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 application.

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 16.8.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 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 existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.11.2019;
- (e) 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 16.2.2020;
- (f) in relation to (e) 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 16.5.2020;
- (g) if any of the above planning conditions (a), (b) or (c) 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
- (h) if any of the above planning conditions (d), (e) or (f) 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 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 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.

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 19.6.2019
Appendix Ia	Supplementary Information received on 26.6.2019 providing a Chinese version of the executive summary
Appendix II	Previous Applications covering the Site
Appendix III	Similar Application within the subject "V" Zone on the OZP
Appendices IV-1 to 4	Public Comments Received During Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Existing Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2019**