

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/243

- Applicant** : Mr YEUNG Kwai Siu
- Site** : Government Land in D.D. 123, Wang Chau Yeung Uk Tsuen, Yuen Long, New Territories
- Site Area** : about 62m²
- Lease** : Unallocated Government Land
- Plan** : Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/23 (the OZP)
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services (Grocery Store) and Public Vehicle Park (Motorcycle Only) for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (grocery store) and public vehicle park (motorcycle only) for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for the “V” zone, the proposed ‘Shop and Services’ use not in a New Territories Exempted House (NTEH) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary approval for 6 years. The Site is currently occupied by a structure for storage of miscellaneous items (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in one previous application (No. A/YL/237) by the same applicant for similar temporary shop and services use (real estate agency) for a period of 6 years (**Plan A-1**), which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 10.11.2017. Compared with the last application (No. A/YL/237), the current application occupies a larger area of 62m² (+17m² or +38%) with the inclusion of an additional open area for 3 motorcycle parking spaces.
- 1.3 The Site is accessible via a local track leading from Wang Lok Street to its east. According to the applicant, the Site comprises an existing structure with a total

gross floor area of 40m², site coverage of 65% and building height not exceeding 3m (1 storey). Three parking spaces for motorcycle are proposed for the development. The operation hours are between 9:00 a.m. and 8:00 p.m. daily, including Sundays and public holidays. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1** and **A-2**.

1.4 A comparison of the major development parameters of the current application and the last rejected application is as follows.

Major Development Parameters	Previously Rejected Application No. A/YL/237 (a)	Current Application No. A/YL/243 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services (Real Estate Agency) for a Period of 6 Years	Temporary Shop and Services (Grocery Store) and Public Vehicle Park (motorcycle only) for a Period of 6 Years	Similar shop and services use
Site Area	45m ²	62m ²	+17m ²
Total GFA (Non-domestic)	45m ²	40m ²	-5m ²
No. of Structure	1		---
Height of Structure	4m (1 storey)	3m (1 storey)	-1m
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 received on 26.2.2018 **(Appendix I)**
- (b) Supplementary Information received on 1.3.2018 providing a replacement page of the application form clarifying the Site address **(Appendix Ia)**
- (c) Supplementary Information received on 2.3.2018 providing a replacement page of the application form clarifying the plot ratio and site coverage of the proposed development **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendix I**. They can be summarized as follows:

- (a) The proposed development is in line with the planning intention of the “V” zone

to serve the daily need of the residents and convenient to them to park their motorcycles.

- (b) The proposed development is temporary in nature and would not jeopardise the building of NTEH in the long run. Its nature, form, and layout are compatible with the surrounding environment and would not affect the character of the indigenous village.
- (c) The operating hour of the proposed development is from 9:00 a.m. to 8:00 p.m. daily to match the surrounding environment.
- (d) The Board has approved a good number of similar real estate agencies at “V” zone all over rural Yuen Long and Tuen Mun. Similar preferential treatment should be granted to this application. The Board is requested to approve the application on sympathetic grounds.

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

As the Site involves Government land only, the “owner’s consent/notification” requirement 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) is not applicable to the application.

4. Previous Application

The Site was involved in one previous application (No. A/YL/237) by the same applicant for similar temporary shop and services use (real estate agency) for a period of 6 years, which was rejected by the Committee on 10.11.2017 mainly for reasons that the proposed use was not in line with the planning intention of “V” zone; the applicant failed to demonstrate reasonable prospect for securing the required government land for implementing the proposed use; and would set an undesirable precedent jeopardizing the availability of land for Small House development in the subject “V” zone. Details of the application are summarized at **Appendix II** and the boundary of the Site is shown on **Plan A-1**.

5. Similar Application

There is no similar application for shop and services use within the subject “V” zone on the OZP.

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

6.1 The Site is:

- (a) accessible via a local track leading from Wang Lok Street to its east; and
- (b) currently occupied by a brick structure for storage of miscellaneous items

(Plan A-4); and

6.2 The surrounding areas have the following characteristics:

- (a) generally residential use in nature intermixed with car parking, shop, vehicle repair workshop, temple and vacant structure;
- (b) to its north, northeast and west is the main village cluster of Wang Chau Yeung Uk Tsuen, and to its further northeast are the main village cluster of Wan Chau Lam Uk Tsuen and a car park (**Plans A-1 and A-2**);
- (c) to its southeast and south is a residential development namely Yuk Yat Garden;
- (d) to its southwest are a shop and a vehicle repair workshop; and
- (e) to its northwest are a temple and a vacant structure which is the former Wang Chau public school.

7. 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 NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views are summarized as follows:

Land Administration

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

- (a) The Site situates on government land (GL) (about 62m² subject to verification) and no permission is given for occupation of GL included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (b) The Site is accessible to Wang Lok Street through GL only and may be considered for separate alienation. LandsD in general would not process an application for regularization of unlawful

occupation of unleased land which is capable for reasonable separate alienation even though approval of the Board is given.

- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) There is no Small House application currently under processing and no approved Small House application within the Site and in the vicinity.
- (e) The number of outstanding Small House applications and 10-year forecast of Small House demand in Wang Chau Yeung Uk Tsuen, Wang Chau Lam Uk Tsuen, Wang Chau Sai Tau Wai, Wang Chau Chung Sam Wai, Wang Chau Tung Tau Wai and Wang Chau Fuk Hing Tsuen are 47 and 1,020 respectively.

Traffic

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

- (a) The applicant has indicated in the submission that a vehicular access is available leading to the Site from Wang Lok Street. The applicant is reminded to ensure no parking, vehicle 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 Wang Lok Street shall be checked with the lands authority.
- (c) The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly.

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

- (a) The access arrangement should be commented by the Transport Department (TD).
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Wang Lok Road.

Environment

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

Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in

the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of a drainage proposal and maintenance of the implemented drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

8.1.6 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 (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. 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; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, 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

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

Noting that the proposed temporary shop and services is located on GL, he is not in a position to comment on the application.

Geotechnical

8.1.8 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no in-principle geotechnical objection to the application.
- (b) The Site is located within the Scheduled Area No. 2 and may be underlain by cavernous marble. For any new development at the proposed area, extensive geotechnical investigation will be required. Such investigation may reveal the need for a high level of involvement of an experienced geotechnical engineer both in the design and in the supervision of geotechnical aspects of the works required to be carried out on the Site.
- (c) The applicant is also reminded to submit works to BD for approval as required under the provisions of the BO.

Others

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

- (a) He has no comment on the application from electricity supply safety aspect.
- (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.

8.1.10 Comments of the Chief Engineer/Cross-boundary and Infrastructure Development, Planning Department (CE/CID, PlanD):

The Site falls outside the “Study Area” of the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”.

District Officer’s Comments

8.1.11 Comments of the District Officer (Yuen Long), Home Affairs

Department (DO(YL), HAD):

His office has not received any comment from locals on the application.

8.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (d) Commissioner of Police (C of P).

9. Public Comment Received During the Statutory Publication Period

On 6.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 27.3.2018, no public comment was received.

10. Planning Considerations and Assessments

- 10.1 The subject application is for proposed temporary shop and services (grocery store) and public vehicle park (motorcycle only) on the Site falling within an area zoned “V” on the OZP. 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. For the current application, whilst the applicant applies for a temporary approval for 6 years, the existing structure is built with bricks. The applicant fails to demonstrate the genuine temporary nature of the development. As such, there is no strong planning justification in the submission for a departure from the planning intention.
- 10.2 According to DLO/YL of LandsD, the number of outstanding Small House applications in Wang Chau Yeung Uk Tsuen, Wang Chau Lam Uk Tsuen, Wang Chau Sai Tau Wai, Wang Chau Chung Sam Wai, Wang Chau Tung Tau Wai and Wang Chau Fuk Hing Tsuen is 47 (i.e. about 1.18 ha of land), while the 10-year forecast of Small House demand for the same villages is 1,020 Small Houses (i.e. about 25.5 ha of land). From the latest estimate by PlanD, about 4.10 ha of land (equivalent to about 164 Small House sites) are available within the “V” zone covering the concerned villages. Land within “V” zone should be reserved for Small House development. Whilst the applicant currently seeks temporary approval for 6 years, as explained in paragraph 10.1 above, the applicant fails to demonstrate the genuine temporary nature of the development. Approval of the current application will affect the land available for Small House development.
- 10.3 Whilst concerned government departments consulted, including CBS/NTW of BD, DEP, C for T, CE/MN, DSD and D of FS, have no objection to or adverse comment on the application, the Site comprises wholly GL and DLO/YL of

LandsD has indicated that LandsD in general would not process an application for regularization of unlawful occupation of unleased land which is capable for reasonable separate alienation. The applicant fails to demonstrate a reasonable prospect for securing the required GL for implementing the proposed use.

- 10.4 The application involves unauthorized structure and illegal occupation of GL which may be considered for separate alienation by LandsD. Approval of the application would send a wrong message of Government condoning the unauthorized structure on GL and set an undesirable precedent attracting other similar development in the area. The cumulative effect will jeopardize the availability of land for Small House development in the subject “V” zone.
- 10.5 The Committee has recently rejected a previous application (No. A/YL/237) for similar temporary shop and services use (real estate agency) for a period of 6 years covering part of the Site on 10.11.2017. Since then, there has not been any major change in circumstances. When compared to the previous application, the current application involves a larger site wholly on GL.
- 10.6 With regard to the previously approved applications for similar temporary shop and services uses within “V” zones of Yuen Long and Tuen Mun areas as claimed by the applicant (para. 2(d) above), it should be noted that each case should be considered based on individual merits and planning circumstance and hence would not be comparable to the subject case. For the subject case, it should be noted that, amongst other, a brick structure on GL is involved and the applicant fails to demonstrate the genuine temporary nature of the development.
- 10.7 There is no public comment received on the application during the statutory publication period.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10, the Planning Department does not support the application for the following reasons:
 - (a) 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
 - (b) the applicant fails to demonstrate a reasonable prospect for securing the required government land for implementing the proposed use; and
 - (c) approval of the application would set an undesirable precedent attracting other similar development in the area. The cumulative effect will jeopardize the availability of land for Small House development in the subject “V” zone.

- 11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 6 years until 20.4.2024. 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 submission of a 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 20.10.2018;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.1.2019;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 20.10.2018;
- (g) in relation to (f) 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 20.1.2019;
- (h) if any of the above planning conditions (a), (b) 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 conditions (c), (d), (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 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 III**.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

13. Attachments

Appendix I	Application Form received on 26.2.2018
Appendix Ia	Supplementary Information received on 1.3.2018 providing a replacement page of the application form clarifying the Site address
Appendix Ib	Supplementary Information received on 2.3.2018 providing a replacement page of the application form clarifying the plot ratio and site coverage of the proposed development
Appendix II	Previous application covering the Site
Appendix III	Recommended Advisory Clauses
Drawing A-1	Plan showing the Vehicular Access leading to the Site
Drawing A-2	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**