

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL/265**

|                           |   |
|---------------------------|---|
| <b><u>Applicant</u></b>   | : Charter Triumph Limited represented by Metro Planning and Development Company Limited                                       |
| <b><u>Site</u></b>        | : Lots 1865 S.C. and 1865 RP in D.D. 120 and adjoining Government land (GL), Tai Shu Ha Road East, Yuen Long, New Territories |
| <b><u>Site Area</u></b>   | : 405m <sup>2</sup> (about) (including GL of about 188m <sup>2</sup> or 46.4%)  |
| <b><u>Lease</u></b>       | : Block Government Lease (demised for agricultural use)   |
| <b><u>Plan</u></b>        | : Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/23  |
| <b><u>Zoning</u></b>      | : “Village Type Development” (“V”)<br>[Restricted to maximum building height of 3 storeys (8.23m)]                            |
| <b><u>Application</u></b> | : Proposed Temporary Shop and Services 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 for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for “V” zone, ‘Shop and Services’ not on the ground floor of a New Territories Exempted House (NTEH) is under Column 2 use that requires planning permission from the Town Planning Board (the Board). The Site is currently occupied for vehicle repair workshop without valid planning permission (**Plans A-2 to A-4**). The Site is not involved in any previous application.
- 1.2 According to the applicant, the proposed development comprises a two-storey structure for a retail shop for selling hardware accessories with a total gross floor area (GFA) of about 760m<sup>2</sup>, plot ratio (PR) of about 1.88 and site coverage (SC) of 93.8%. Two vehicle parking spaces for private cars and one loading/unloading space for light good vehicle are proposed within the Site. The operation hours are between 9:00 a.m. and 7:00 p.m. from Mondays to Sundays, including public holidays. A proposed layout plan and a proposed drainage plan submitted by the applicant are shown in **Drawings A-1 to A-2** respectively.

1.3 The major development parameters of the applied use are as follows:

|                                       |   |
|---------------------------------------|---|
| Site Area                             | About 405m <sup>2</sup><br>(including about 188m <sup>2</sup> of GL)      |
| Total Gross Floor Area (Non-domestic) | About 760m <sup>2</sup>   |
| No. of Structures                     | 1   |
| Maximum Height of Structures          | 2 storeys including Carport<br>(7m)                                       |
| No. of Parking Spaces                 | 2 (for private cars)  |
| Loading / Unloading Spaces            | 1 (for light goods vehicle)   |
| Operation Hours                       | 9:00a.m. to 7:00p.m. from Mondays to Sundays<br>including public holidays |

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

- (a) Application Form with attachments received on 14.7.2020 **(Appendix I)**
- (b) Further information (FI) received on 30.9.2020 in response to the comments of the Transport Department (TD) and providing clarifications on background information **(Appendix Ia)**  
*[exempted from publication and recounting requirements]*
- (c) FI received on 15.10.2020 to clarify background information and providing swept path analysis in response to TD's comments **(Appendix Ib)**  
*[exempted from publication and recounting requirements]*
- (d) FI received on 1.12.2020 with a revised proposed layout plan, a revised egress/ingress arrangement plan, a swept path analysis for light goods vehicle and a sightline analysis in response to TD's comments **(Appendix Ic)**  
*[exempted from publication and recounting requirements]*

1.5 On 4.9.2020 and 20.11.2020, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for 2 months respectively, as requested by the applicant's representative, to allow time for submission of FI to address departmental comments. The applicant submitted FI as indicated in paragraph 1.4 above. The application is 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 the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The proposed development is temporary in nature and would not jeopardize the long-term planning intention of the “V” zone.
- (b) The nature and form of development is not incompatible with the surrounding environment. The proposed development is a shop which would benefit the villagers in the vicinity. The Site is currently occupied by a vehicle repair workshop. The approval of the application would phase out such incompatible use in the “V” Zone.
- (c) Similar planning application (i.e. No. A/YL/250<sup>1</sup>) has been approved in the proximity to the Site.
- (d) Only light goods vehicle (not exceeding 5.5 tonnes) will be allowed to enter/park at the Site. The applicant has submitted the estimated traffic generation to support the application and to demonstrate that the actual traffic generation and attraction would be insignificant. The applicant has also submitted drainage plan to support his application. In view of the nature, scale and form of the development, the proposed development would not generate adverse impact to the surrounding environment.

## 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 obtaining the consent of current land owners. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

## 4. **Previous Application**

The Site is not subject to any previous application.

## 5. **Similar Application**

There is no similar application within the same “V” zone on the OZP.

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<sup>1</sup> Application No. A/YL/250 for temporary shop and services for a period of 6 years was approved by the Committee on 16.11.2018. However, the application site is situated within another “V” zone on the OZP.

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

6.1 The Site is:

- (a) currently hard-paved and used for a vehicle repair workshop without valid planning permission; and
- (b) accessible from Tai Shu Ha Road East.

6.2 The surrounding areas have the following characteristics:

- (a) generally residential use in nature intermixed with vehicle parks, workshops, food factory and open storage yards;
- (b) to its north and west are intermixed with temporary structures, parking of vehicles and clusters of low-density residential settlements;
- (c) to its immediately west are Tai Shu Ha Road East and West and a nullah;
- (d) to its east is Yuen Long Hang Heung Cake Factory (under an active planning application No. A/YL/263 for proposed social welfare facility for a residential care home for the elderly (RCHE)); and
- (e) to its further south across Shap Pat Heung Road are the proposed Po Leung Kuk Youth Hostel which is under construction, a proposed RCHE<sup>2</sup>, parking of vehicles and some residential settlements.

## **7. Planning Intention**

The planning intention of “V” zone 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. 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 on the application and/or the public comments received are summarised as follows:

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<sup>2</sup> The proposed RCHE, under application No. A/YL/261, was approved by the Committee on 15.9.2020 for minor relaxation of building height restriction.

### **Land Administration**

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

- (a) The Site comprises GL and Old Schedule Agricultural Lots 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) No permission is given for occupation of GL (about 188m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed.
- (c) Should planning approval be given to the subject planning application, the lot(s) owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a direct grant of Short Term Tenancy for use of the Site. Applications for any of the above will be considered by LandsD 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(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

### **Traffic**

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

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

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

- (a) The proposed access arrangement of the Site from Tai Shu Ha Road East should be commented and approved by TD.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Shu Ha Road East.
- (c) If the proposed run-in/ out is agreed by TD, the applicant should provide the run in/out at Tai Shu Ha Road East in accordance with the latest version of Highways Standard No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

**Urban Design and Landscape**

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

- (a) Given that the scale of application is a low-rise development and is “temporary” in nature, the proposed development is considered not incompatible with the surrounding context and adverse visual impact is not anticipated.
- (b) According to the aerial photo of 2019, the Site is completely hard paved with no existing tree observed within the boundary. It is mainly occupied by a temporary structure and the applied use appears to be in operation.
- (c) The Site is located in an area of miscellaneous urban fringe landscape predominated by village houses and tree groups with open storage yards and temporary structures in the proximity. Significant change arising from the proposed use to the landscape character of the surrounding area is not envisaged.

**Drainage**

8.1.6 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. Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant (i) the submission of a drainage and sewerage proposal, and (ii) the implementation and maintenance

of the drainage and sewerage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

### **Fire Safety**

8.1.7 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 applicant should note his detailed comments at **Appendix III**.

### **Building Matters**

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

- (a) As there is no record of approval granted by the Building Authority (BA) 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) The applicant should be reminded of the detailed comments at **Appendix III**.

### **Environment**

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

Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (the COP).

### **Geotechnical**

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

- (a) He has no in-principle objection to the captioned application.
- (b) The applicant is reminded of the detailed comments at **Appendix III**.

**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 the village representatives in the vicinity regarding the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Project Manager (West), CEDD (PM(W), CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

**9. Public Comments Received During Statutory Publication Period**

On 24.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 2 public comments from individuals were received with 1 objecting and 1 expressing views on the application (**Appendices II-1 and II-2**). The objecting comment states that commercial activities are not suitable for rural and residential areas while the other commenter expresses that provision of Government, institution and community facilities within "V" zone should be a priority.

**10. Planning Considerations and Assessments**

10.1 The application is for proposed temporary shop and services for a period of 6 years within the "V" zone on the OZP. The planning intention of the "V" zone is primarily for development of Small Houses by indigenous villagers. 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. Although the proposed use is not entirely in line with the planning intention of the "V" zone, according to the applicant, the proposed shop is intended to serve the villagers in the vicinity. According to DLO/YL of LandsD, there is currently no Small House application under processing at the Site. In this regard, approval of the development on a temporary basis would not frustrate the long-term planning intention of the "V" zone.

10.2 The proposed development, comprising a two-storey structures with a total floor area of about 760m<sup>2</sup>, is not incompatible with the surrounding uses which are predominantly residential uses intermixed with parking of vehicles and temporary structures. CTP/UD&L, PlanD has no adverse comment on the application from visual impact point of view.



- 10.3 Relevant government departments including C for T, DEP, CE/MN, DSD, CTP/UD&L, PlanD have no objection to or adverse comment on the application. Significant adverse traffic, environmental, drainage, sewerage and landscape impacts on the surrounding areas are not envisaged. Appropriate approval conditions are suggested in paragraph 11.2 below to minimise any possible environmental nuisances on the surrounding areas or to address the technical requirements of the concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the COP in order to minimise any potential environmental impact.
- 10.4 There are 2 public comments received during the statutory publication period with 1 objecting to the application as mentioned in paragraph 9 above. Planning considerations and assessments in paragraphs above are relevant.

## **11. Planning Department's Views**

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments as mentioned in paragraph 9 above, the Planning Department has no objection to the application for a period of 6 years.
- 11.2 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 6 years until 22.1.2027. 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 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium and 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;
- (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 submission of a drainage and sewerage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.7.2021;
- (e) in relation to (d) above, the implementation and maintenance of the drainage and sewerage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.10.2021;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (g) 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 22.7.2021;
- (h) in relation to (g) 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 22.10.2021;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

- 11.3 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.

**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 with attachments received on 14.7.2020

|                                 |  |
|---------------------------------|--|
| <b>Appendix Ia</b>              | FI received on 30.9.2020 in response to the comments of TD and providing clarifications on background information  |
| <b>Appendix Ib</b>              | FI received on 15.10.2020 to clarify background information and providing swept path analysis in response to TD's comments   |
| <b>Appendix Ic</b>              | FI received on 1.12.2020 with a revised proposed layout plan, a revised egress/ingress arrangement plan, a swept path analysis for light goods vehicle and a sightline analysis in response to TD's comments |
| <b>Appendices II-1 and II-2</b> | Public comments received   |
| <b>Appendix III</b>             | Recommended advisory clauses   |
| <b>Drawing A-1</b>              | Proposed layout plan   |
| <b>Drawing A-2</b>              | Proposed drainage plan   |
| <b>Plan A-1</b>                 | Location plan  |
| <b>Plan A-2</b>                 | Site plan  |
| <b>Plan A-3</b>                 | Aerial photo   |
| <b>Plan A-4</b>                 | Site photos  |

**PLANNING DEPARTMENT  
JANUARY 2021**