

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

APPLICATION NO. A/YL-TYST/1043

- Applicant** : Mr. CHEUNG Wing Chung represented by Metro Planning and Development Company Limited
- Site** : Lots 1567 RP (Part), 1568 (Part) and 1570 (Part) in D.D. 121, Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 3,410 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Draft Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/13 currently in force

Approved TYST OZP No. S/YL-TYST/12 at the time of submission
- Zoning** : “Village Type Development” (“V”)
[restricted to a maximum building height of 3 storeys (8.23m)]

[No change to the “V” zone]
- Application** : Renewal of Planning Approval for Temporary Public Vehicle Park for Private Car and Light Goods Vehicle and 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 use the application site (the Site) for temporary public vehicle park for private car and light goods vehicle (LGV) and shop and services (real estate agency) for a further period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Public Vehicle Park (excluding Container Vehicle)’ and ‘Shop and Services’ are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/855 with validity until 22.9.2020 (**Plans A-2 and A-4**).
- 1.2 The Site involves 2 previous applications (No. A/YL-TYST/694 and 855) for temporary public vehicle park for private cars and LGVs with/without shop and services (real estate agency) use (**Plan A-1**). The last application (No. A/YL-TYST/855) for the same use as the current application was approved with conditions

for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 22.9.2017. All the time-limited approval conditions under the last application had been complied with and the permission is valid until 22.9.2020. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

- 1.3 According to the applicant, the proposal is for a real estate agency and a public vehicle park mainly to serve the needs of residents in nearby Shan Ha Tsuen. There will be a total of 46 parking spaces for private car/LGV. No vehicle repairing, dismantling or other workshop activities will be carried out at the Site. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, and vehicles without valid licences issued under the Road Traffic Ordinance will be allowed to enter/park at the Site. In addition, a site notice will be posted at a prominent location of the Site at all times to indicate that only private cars and LGVs are allowed to be parked on the Site. Plans showing the vehicular access leading to the Site, site layout, landscape and tree preservation proposal, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the previously approved application No. A/YL-TYST/855 are the same as the current application, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/855	Current Application No. A/YL-TYST/1043
Applied Use	Temporary Public Vehicle Park for Private Car and LGV and Shop and Services (Real Estate Agency)	
Site Area	About 3,410 m ²	
Total Floor Area (Non-domestic)	About 160 m ²	
No. and Height of Structures	<p style="text-align: center;">3</p> <ul style="list-style-type: none"> • one for site office (3.5m, 1 storey) • one for real estate agency with a 2m signage on rooftop (5.5m, 1 storey) • one for metre room (3m, 1 storey) 	
No. of Parking Spaces	<p style="text-align: center;">46</p> <p style="text-align: center;">(for private car/LGV) (5m x 2.5m)</p>	
No. of Loading/Unloading Space	<p style="text-align: center;">Nil</p>	
Operation Hours	<p style="text-align: center;">24 hours daily (for public vehicle park)</p> <p style="text-align: center;">9:00a.m. to 8:00p.m. daily (for real estate agency)</p>	

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annex and plans received on **(Appendix I)**
29.6.2020

- (b) Supplementary Information received on 6.7.2020 **(Appendix Ia)**
clarifying the proposed operation
- (c) Further Information (FI) received on 13.8.2020 **(Appendix Ib)**
providing FSIs proposal with fire certificates and
clarification on site layout and proposed use
[exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form, Supplementary Information and FI (**Appendices I to Ib**). They can be summarised as follows:

- (a) The Site has been the subject of previous planning permissions for public vehicle park since 2014 while the real estate agency at the Site has been approved by the Board in 2017.
- (b) The proposal is in line with the planning intention of the “V” zone and is compatible with the surrounding environment. There are insufficient parking spaces to meet the parking demand in Shan Ha Tsuen. Similar planning applications have been approved by the Board in the nearby “V” zone.
- (c) Part of the Site is Tso/Tong land which renders it difficult to be put to other uses.
- (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal. The proposal is compatible with 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 posting a notice of the application outside the Site and sending the notice to the Ping Shan Rural Committee by registered post. 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 the application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves two previous applications (No. A/YL-TYST/694 and 855) for temporary public vehicle park for private cars and LGVs with/without shop and services (real estate agency) use. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TYST/694 for temporary public vehicle park for private cars and LGVs was approved with conditions for a period of 3 years by the Committee on 26.9.2014, mainly on the considerations that the proposal would not frustrate the long-term planning intention of the area; not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions.
- 6.3 The last application (No. A/YL-TYST/855) for the same use as the current application was approved with conditions for a period of 3 years by the Committee on 22.9.2017, mainly on similar considerations as those specified in paragraph 6.2 above and that previous and similar applications had been approved by the Committee. All the time-limited approval conditions under the last application had been complied with and the planning permission is valid until 22.9.2020.
- 6.4 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. Similar Applications

There are 5 similar applications (No. A/YL-TYST/86, 627, 629, 761 and 804) for various public vehicle park uses in the subject “V” zone, which were all approved with conditions by the Committee between 2000 and 2016 each for a period of 3 years, mainly on similar considerations that the proposals would not jeopardise the long-term planning intention of the “V” zone; not incompatible with the surrounding land uses; and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions under applications No. A/YL-TYST/86, 627 and 804 were revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.

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

- 8.1 The Site is (**Plans A-2 and A-4**):
 - (a) accessible via a local track leading from Shan Ha Road to its northwest;
 - (b) paved and largely fenced off; and
 - (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/855.
- 8.2 The surrounding areas have the following characteristics:

- (a) comprise predominantly village houses intermixed with scattered open storage/storage yards, parking of vehicles, construction sites, plant nursery, vehicle repair workshop, woodland and vacant land/structures;
- (b) there are residential structures in the vicinity with the nearest one located about 10m to its east, while the main cluster of the village houses of Shan Ha Tsuen is about 40m to its west; and
- (c) except for an open storage yard, a vehicle repair workshop and a plant nursery to the north and southeast of the Site, the other open storage/storage yards and parking of vehicles in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. 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 the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

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

- (a) The Site comprises 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) Within the Site, Lots 1567 RP and 1570 in D.D. 119 are currently covered by Short Term Waivers (STWs) No. 4474 and 4475 respectively to permit the structures erected thereon for the purpose of “Temporary Public Vehicle Park for Private Cars and LGVs”.
- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or to regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for

regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity of the 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 rent or fee, as may be imposed by her department.

- (d) There is no Small House application approved/under processing within the Site.

Traffic

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

- (a) The land status of the access road/path/track leading to the Site from Shan Ha Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly.
- (c) 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.

10.1.3 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 Shan Ha Road.

Environment

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

- (a) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (b) 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 Use" (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Based on the drainage proposal/planning statement enclosed in the application (**Drawing A-4** and **Appendix I**), apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-TYST/855.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/855 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Water Supplies

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

- (a) She has no objection to the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI**.

Building Matters

10.1.7 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) The applicant should be reminded of the detailed comments at **Appendix VI**.

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 FSIs implemented on the Site being maintained in efficient working order at all times.

District Officer's Comments

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

His office has not received any feedback from locals.

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

- (a) Commissioner of Police (C of P);

- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Chief Engineer/Cross-boundary Infrastructure and Development, Planning Department (CE/CID, PlanD); and
- (e) Director of Agriculture, Fisheries and Conservation (DAFC).

11. Public Comments Received During Statutory Publication Period

On 10.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. The first individual was concerned with environmental and safety aspects as the proposal would generate additional traffic (**Appendix V-1**). The second individual opined that some land in “V” zone could be used for community facilities and open spaces (**Appendix V-2**).

12. Planning Considerations and Assessment

- 12.1 The application is for renewal of planning approval for temporary public vehicle park for private car and LGV and 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 for development of Small Houses by indigenous villagers, the proposal could provide parking spaces and real estate agency services to meet any such demand in the area. According to DLO/YL, LandsD, there is currently no Small House application approved/under processing at the Site. As such, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The surrounding areas comprise predominantly village houses intermixed with parking of vehicles and open storage/storage yards (**Plan A-2**). The development is generally not incompatible with the surrounding uses.
- 12.3 The application is generally in line with TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TYST/855; the approval conditions under the previous application No. A/YL-TYST/855 had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 There is no adverse comment on the application from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to minimise any potential environmental nuisances or to address the local concerns and technical requirements of other concerned government departments. 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 planning application be approved, the applicant will also be advised to follow the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.

- 12.5 Given that two previous approvals for public vehicle park with/without shop and services use have been granted to the Site and 5 similar applications have been approved in the subject “V” zone, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.6 There were two public comments received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 from 23.9.2020 to 22.9.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation for the real estate agency 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 without valid licences issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site at all times to indicate that only private car and light goods vehicle not exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, are allowed to be parked on the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle repairing, dismantling or other workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (i) the submission of records of the existing drainage facilities on the Site within **3** months from the date of the commencement of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.12.2020;
- (j) the existing fire services installations shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (j) 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
- (l) if the above planning condition (i) 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.

[Approval conditions (a), (b), (c), (d), (f), (h) and (i) are the same as those under the permission for application No. A/YL-TYST/855, conditions (e), (g) and (j) have been updated as per the current proposal, and the reinstatement clause is deleted to accord with the department's latest requirements.]

Advisory clauses

The recommended advisory clauses are 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 development is not in line with the planning intention of the "V" zone which is intended 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.

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 with annex and plans received on 29.6.2020
- Appendix Ia** Supplementary Information received on 6.7.2020

Appendix Ib	FI received on 13.8.2020
Appendix II	Relevant extracts of TPB PG-No. 34C
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Applications within the subject “V” zone on the TYST OZP
Appendices V-1 and V-2	Public Comments received during the Statutory Publication Period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape and Tree Preservation Proposal
Drawing A-4	Drainage Proposal
Drawing A-5	FSIs Proposal
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2020**