

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/245

- Applicant** : Tang Chi Hok represented by Metro Planning and Development Company Limited
- Site** : Lot 2497 RP (Part) in D.D. 120, Shap Pat Heung Road, Yuen Long, New Territories
- Site Area** : 370m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Yuen Long Outline Zoning Plan No. S/YL/23 (the OZP)
- Zoning** : “Government, Institution or Community” (“G/IC”)
[*Restricted to a maximum building height of 8 storeys excluding basement(s)*]
- Application** : ***Proposed*** Temporary Shop and Services (Convenient Store) 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 (convenient store) for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for “G/IC” zone, ‘Shop and Services’ use requires planning permission from the Town Planning Board (the Board). The Site is currently largely vacant with some temporary structures (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development comprises two single-storey structures for a convenient store and a toilet with a total floor area of 172m² and building height not exceeding 4m. The operation hours are between 9:00 a.m and 9:00 p.m. daily. A site layout plan, an internal layout plan, a proposed landscape plan and a proposed drainage plan submitted by the applicant are shown in **Drawings A-1 to A-4** respectively.

- 1.3 In support of the application, the applicant has submitted the following document:
- (a) Application form with attachments received on 25.4.2018 **(Appendix I)**
 - (b) Supplementary Planning Statement **(Appendix Ia)**
 - (c) Supplementary Information clarifying the site area, proposed plot ratio and site coverage with corresponding changes to the Executive Summary in the Supplementary Planning Statement **(Appendix Ib)**
 - (d) Further Information received on 1.6.2018 clarifying the traffic arrangement of the Site, the goods to be sold with an internal layout plan **(Appendix Ic)**

2. **Justifications from the Applicant**

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

- (a) The Site falls within the “G/IC” zone on the approved Yuen Long OZP. The planning intention of the zone could not be realised within the coming 6 years because land resumption is yet to commence. The proposed development would not jeopardise the long-term planning intention of the zone.
- (b) The proposed development with temporary structures of single storey and not exceeding 4m high is compatible to the surrounding developments and would not affect the character of the area.
- (c) The proposed development is in proximity to three schools and a high-*rise* residential development namely Emerald Green. They are target customers for the proposed development.
- (d) Similar approvals were granted by the Board in Tong Yan San Tsuen and Ping Shan areas under Applications No. A/YL-TYST/767 and A/YL-PS/503, 531 and 555.
- (e) The proposed development will not generate significant traffic and environmental impacts on the surrounding area. The applicant will implement the measures with reference to the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to enhance the compatibility with the surrounding ~~enviroment~~ *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. 31) by obtaining the current land owner’s consent. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site falls within an “Education” zone on the draft Yuen Long New Town Area 13 Layout Plan (the LP) No. L/YL/13E which is reserved for a primary cum secondary school with area about 1.3 ha (**Plan A-5**).

5. Previous Application

There is no previous application within the same “G/IC” zone on the OZP.

6. Similar Application

There is no similar application within the same “G/IC zone on the OZP.

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

7.1 The Site is:

- (a) accessed via a local road leading to Shap Pat Heung Road to its north; and
- (b) currently largely vacant with some temporary structures for storage use.

7.2 The surrounding areas have the following characteristics:

- (a) to its east are car/trailer park areas, and a barbecue area;
- (b) to its immediate south is a residential structure and further south are a trailer park, residential structures, storage yard and vacant land;
- (c) to its west across a nullah are a refuse collection point, open storage yards and further west three existing schools; and
- (d) to its north across Shap Pat Heung Road are a pumping station, a high-rise residential development, namely Emerald Green (25 storeys) on land zoned “Residential (Group B)” (“R(B)”) and plots of vacant land.

8. Planning Intention

The “G/IC” zone is intended primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application and/or the public comments received 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 Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible to Shap Pat Heung Road via government land (GL). Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be granted by the Board, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by her department acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be required by her department.
- (e) The programme of land resumption would follow the project officer's programme notwithstanding the validity period of the planning permission to be granted.

Education

9.1.2 Comments of the Secretary for Education (S for E):

He notes that the Site falls within two reserved school site areas, i.e. YL 16h and YL 16g. On the understanding that the approval of the subject application on a temporary basis would not jeopardize the long-term school development of the Site according to LandsD's advice, his office has no comment on the application. There is a need to reserve school sites to meet the projected demand for school places given that reservation of sites for primary school should be made on a district basis.

Traffic

9.1.3 Commissioner for Transport (C for T):

He has no comment on the applicant's further information clarifying the traffic arrangement of the Site (**Appendix Ic**) and no comment on the application from traffic engineering viewpoint.

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

He notes that no vehicular access is proposed or to be granted under the application. He has no comment from highways maintenance point of view. Should planning approval be granted, the applicant should be advised that the application is approved on the understanding that there is and will be no vehicular access to/from the Site.

Environment

9.1.5 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 "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites".

Landscape Aspect

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

- (a) With reference to the aerial photo of 2017, the Site is occupied by a temporary structure with trees generally adjacent to the site boundary. The Site is situated in an area of urban fringe landscape character. Significant change to the landscape character arising from the application is not anticipated.
- (b) Having reviewed the submitted information, she notes that the

applicant has submitted a proposed landscape plan (**Drawing A-3**) for her consideration to which she has the following comments:

- (i) The proposed drainage layout would be in conflict with the large existing tree retained in-situ. For useful information on tree planting, the applicant should refer to the “Handbook on Tree Management 樹木管理手冊” published by the GLTM Section, in particular Appendix 10 (正確種植方法 — 提供足夠空間讓樹冠生長) and Appendix 23 (樹木保護範圍的設計). Hence adequate clearance between the existing tree and proposed drainage should be provided to avoid damage to the root systems.
 - (ii) In continuation of the above, precautionary measures such as kerbs and bollards should be proposed to prevent damage to the tree from vehicular traffic and access gate.
 - (iii) She opines that the proposed additional trees may be unsustainable and impractical due to the shade of the existing large tree and circulation requirements of the possible loading/unloading activities.
- (c) In consideration of the above, should planning approval be granted, it is recommended to inclusion of the condition to submit and implement a tree preservation proposal to the satisfaction of the Director of Planning or of the Board.
- (d) Other detailed comments are at **Appendix III**.

Drainage

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

- (a) He has no objection in principle to the proposed development. Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal, implementation of the drainage proposal and maintenance of the implemented drainage facilities to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.
- (b) Other detailed comments on the submitted drainage proposal (**Drawing A-4**) are at **Appendix III**.

Fire Safety

9.1.8 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

9.1.9 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 on the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of his department, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by his department to effect their removal in accordance with his department'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 BO.

- (iii) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (iv) 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.
- (v) 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.

Geotechnical

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

- (a) He has no in-principle 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

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

Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the Study). The Site falls within the Study Area of YLS but outside the development area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

District Officer's Comments

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

The local consultation was completed and his office has not received any comments from the village representatives in the vicinity regarding the application.

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

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

10. Public Comments Received During Statutory Publication Period

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 25.5.2018, one public comment was received. The commenter objects to the application mainly on ground that the Site should be used for elderly facilities which are desperately in need for the community and it is unacceptable to lock up the Site for 6 years for the proposed commercial use (**Appendix II**).

11. Planning Considerations and Assessments

11.1 The subject application is for *proposed* temporary shop and services (convenient shop) at the Site zoned "G/IC" on the OZP. The planning intention of the "G/IC" zone is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. The subject "G/IC" zone is reserved for a primary cum secondary school development. The proposed use is not entirely in line with the planning intention of the "G/IC" zone. However, EDB has no comment on the application for a temporary use for 6 years having regard of DLO/YL's advice that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. The proposed development could also provide convenient store service to serve any such demand in the area. As such, approval of the application on a temporary basis would not jeopardize the long-term school development of the Site.

11.2 The proposed development comprises two single-storey structure with a total floor area of about 172m². It is considered that the proposed use and the development scale is not incompatible with the surrounding uses which are

predominantly residential and school uses intermixed with open storage yards and vehicle parks (**Plan A-2**).

- 11.3 Relevant government departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no objection to or adverse comment on the application. No adverse impact on traffic, environmental, drainage and fire safety from the proposed development is expected. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions proposed would result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impacts.
- 11.4 There is one comment received during the statutory publication period of the application as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

12. **Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment as mentioned in paragraph 10 above, the Planning Department considers that the *proposed* temporary shop and services (convenient store) could be tolerated for a period of 6 years.
- 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 6 years until 15.6.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of a revised 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 15.12.2018;
- (c) 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 15.3.2019;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (e) the submission of 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 15.12.2018;
- (f) in relation to (e) above, the implementation of 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 15.3.2019;
- (g) the submission of a tree preservation proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 15.12.2018;
- (h) in relation to (g) above, the implementation of the tree preservation proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 15.3.2019;
- (i) if any of the above planning conditions (a) and (d) 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;
- (j) if any of the above planning conditions (b), (c), (e), (f), (g) and (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; and
- (k) 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 IV**.

12.3 There is no strong reason to recommend rejection of the application.

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 attachments received on 25.4.2018
Appendix Ia	Supplementary planning statement
Appendix Ib	Supplementary information clarifying the site area, proposed plot ratio and site coverage with corresponding changes to the executive summary in the supplementary planning statement
Appendix Ic	Further information received on 1.6.2018 clarifying the traffic arrangement of the Site, the goods to be sold with an internal layout plan
Appendix II	Public comment received during statutory publication period
Appendix III	Detailed departmental comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Internal Layout Plan
Drawing A-3	Proposed Landscape Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos
Plan A-5	Extract of the Yuen Long New Town Area 13 LP No. L/YL/13E

**PLANNING DEPARTMENT
JUNE 2018**