

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

APPLICATION NO. A/YL-TYST/1066

- Applicant** : Mr. FONG Man Lee represented by Metro Planning and Development Company Limited
- Site** : Lot 2849 RP in D.D. 120, Kung Um Road, Yuen Long, New Territories
- Site Area** : 175 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Government, Institution or Community (2)” (“G/IC(2)”) (about 69.2%);
[Restricted to a maximum building height of 4 storeys]
and area shown as ‘Road’ (about 30.8%)
- Application** : Renewal of Planning Approval for Temporary 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 shop and services (real estate agency) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “G/IC” zone, ‘Shop and Services (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board), while the covering Notes of the OZP also states that all uses or developments within areas shown as ‘Road’ require planning permission from the Board. The Site is currently occupied by the applied use with planning permission under application No. A/YL-TYST/872.
- 1.2 The Site involves two previous applications for the same use as the current application. The last application (No. A/YL-TYST/872) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 26.1.2018. All the time-limited approval conditions under the last application had been complied with and the permission is valid up to 13.3.2021. 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 albeit with shorter operation hours.

- 1.3 According to the applicant, the applied use is mainly to serve the nearby residents and landowners of Tin Liu Tsuen. No vehicle is allowed to be parked/stored or enter/exit the Site. Plans showing the site layout, landscape and tree preservation proposal, as-built drainage facilities and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the current application are largely the same as the previously approved application No. A/YL-TYST/872, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/872 (a)	Current Application No. A/YL-TYST/1066 (b)	Difference (b) – (a)
Applied Use	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years		--
Site Area	About 175 m ²		--
Total Floor Area (Non-domestic)	About 80 m ²		--
No. and Height of Structures	1 • for real estate agency office, toilet and conference room (6.5m, 2 storeys)		--
No. of Parking and Loading/Unloading Spaces	Nil		--
Operation Hours	9:00 a.m. to 8:00 p.m., daily	9:00 a.m. to 5:00 p.m., daily	Shorter Operation Hours

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

- (a) Application Form with plans received on 8.12.2020 **(Appendix I)**
- (b) Supplementary Information received on 10.12.2020 clarifying the operation hours **(Appendix Ia)**
- (c) Supplementary Information received on 14.12.2020 providing FSIs proposal with fire certificate and clarifying the operation **(Appendix Ib)**
- (d) Further Information (FI) received on 15.1.2021 clarifying the operation **(Appendix Ic)**
[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 the Application Form, Supplementary Information and FI (**Appendices I to Ic**). They can be summarised as follows:

- (a) The Site has been the subject of two previous planning permissions for the same use

since 2015. All the approval conditions imposed to the last application (No. A/YL-TYST/872) had been complied with.

- (b) The temporary proposal would not jeopardise the long-term planning intention. A number of similar real estate agencies have been approved by the Board in rural Yuen Long. The proposal is compatible with the surrounding environment.
- (c) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

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 site notice and sending notice to the Shap Pat Heung 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 for the same use as the current application covering the same site. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-TYST/706 and 872 were approved with conditions each for a period of 3 years by the Committee in 2015 and 2018 respectively¹, mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions.
- 6.3 Compared with the last application (No. A/YL-TYST/872), 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 albeit with shorter operation hours.

¹ Both applications were approved prior to the rezoning of the Site to “G/IC(2)” and ‘Road’ on the subject OZP.

7. Similar Application

There is no similar application within the subject “G/IC(2)” zone.

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

8.1 The Site is:

- (a) accessible from Kung Um Road to its east;
- (b) paved and fenced off; and
- (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/872 (**Plan A-1**).

8.2 The surrounding areas have the following characteristics:

- (a) comprise predominantly open storage/storage yards, warehouses, car parks and vehicle workshops, mixed with a sewage pumping station, scattered residential structures, shrubland and vacant land/structures;
- (b) to its south and further south are areas zoned “Open Space” (“O”) and “Village Type Development” (“V”) on the OZP;
- (c) to its immediate north is the Drainage Services Department Lung Tin Sewage Pumping Station, while the Yuen Long Highway is to its further north;
- (d) there are residential structures in the vicinity with the nearest one situated about 45m to the south of the Site;
- (e) to its east and southeast across a nullah flanked by Kung Um Road and Kiu Hing Road are areas zoned “O” and “V” respectively on the draft Tai Tong OZP No. S/YL-TT/17; and
- (f) except for two open storage yards in the vicinity operating with valid planning permissions (applications No. A/YL-TYST/880 and 963), the other open storage yard, warehouses, car parks and vehicle workshops 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 “G/IC” zone is primarily for the provision of Government, institution or community 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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application 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 an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 2849 RP in D.D. 120 is covered by a Short Term Waiver (STW) No. 4038 to permit structures erected thereon for the purposes of “Temporary Shop and Services (Real Estate Agency)”.
- (c) Should the planning application be approved, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. 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(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 imposed by her department.

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 Kung Um 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 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) He has no comment from highways maintenance point of view as it is noted that no vehicular access is proposed or to be granted under the application.
- (b) Should the planning application be approved, the applicant is reminded

that the application is approved on the understanding that there is and will be no vehicular access to/from the Site.

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 area.

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 application.
- (b) Based on the planning statement enclosed in the application, apparently the applicant would maintain the same drainage facilities as those maintained under the previous planning application No. A/YL-TYST/872.
- (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/872 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.

Building Matters

10.1.6 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 IV**.

Fire Safety

10.1.7 Comments of the Director of Fire Services (D of FS):

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Long-Term Development

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

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan of YLS promulgated in May 2020, the Site falls partly within an area zoned as “Other Specified Uses (Refuse Collection Point and Sewage Pumping Station)” and partly within an area shown as ‘Road’.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

10.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application for temporary use for two years.
- (b) The Site falls within the boundary of YLS Development – Stage 1 (the project). To meet the target first population intake under the project by Q4 of 2028, land clearance is planned to commence in mid 2022 subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project by Q4 2021 and Q1 2022 respectively. The programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted.
- (c) Should the application be approved by the Board, an advisory clause should be stipulated to remind the applicant that ‘the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 1’. His department will give sufficient notice to relevant department(s) for early resumption of the Site if his department's works commence early.

District Officer's Comments

10.1.10 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.

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) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comment Received During Statutory Publication Period

On 15.12.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessment

12.1 The application is for renewal of planning approval for temporary shop and services (real estate agency) for a period of 3 years. Although the applied use is not entirely in line with the planning intention of the "G/IC" zone, which is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory, and the Site falls partly within an area shown as 'Road', PM/W, CEDD has no objection to the application for temporary use for two years. It is noted that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Nevertheless, should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned project.

12.2 The surrounding areas comprise predominantly open storage/storage yards, warehouses, car parks and vehicle workshops (**Plan A-2**). Although there are residential structures in the vicinity, 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 approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the previous application No. A/YL-TYST/872 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 from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 13.2 to address the technical requirements of 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 relevant environmental mitigation measures in 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 the same shop and services use have been granted to the Site, approval of the current application is generally in line with the Committee's previous decisions.
- 12.6 There is no public comment received on the application during the statutory publication period.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary shop and services (real estate agency) could be tolerated for a further period of 3 years.
- 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 and be renewed from 14.3.2021 to 13.3.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 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 be parked/stored on or enter/exit the Site, as proposed by the applicant, 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 existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town

Planning Board by 14.6.2021;

- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) 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 the above planning condition (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.

[Approval conditions (b), (c), (d), (f) and (g) are the same as those under the permission for application No. A/YL-TYST/872, conditions (a), (e) and (h) have been updated as per the current proposal, and the reinstatement clause has been deleted to accord with the department's latest requirements.]

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "G/IC" zone which is for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. 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 plans received on 8.12.2020

Appendix Ia	Supplementary Information received on 10.12.2020
Appendix Ib	Supplementary Information received on 14.12.2020
Appendix Ic	FI received on 15.1.2021
Appendix II	Relevant Extracts of TPB PG-No. 34C
Appendix III	Previous Applications covering the Site
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape & Tree Preservation Proposal
Drawing A-3	As-built Drainage Plan
Drawing A-4	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2021**