

RNTPC Paper No. A/YL-TYST/1063A
For Consideration by
the Rural and New Town
Planning Committee
on 30.4.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1063

Applicant : Mr. LEE Kin Hoi represented by Metro Planning and Development Company Limited

Site : Lot 2734 (Part) in D.D. 124, Tan Kwai Tsuen, Yuen Long, New Territories

Site Area : 830 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

Zoning : “Residential (Group D)” (“R(D)”)
[Restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]

Application : Proposed Temporary Shop and Services for a Period of 3 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 3 years (**Plan A-1**). According to the Notes of the OZP for the “R(D)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently largely vacant (**Plans A-2 and A-4**).
- 1.2 The Site involves three previous applications for the same use as the current application (**Plan A-1**). The last application (No. A/YL-TYST/887) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 20.4.2018. However, the planning permission was revoked on 20.9.2020 due to non-compliance with time-limited approval conditions on implementation of landscape and drainage proposals. 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 mainly to serve the needs of the local residents by offering sales and rental services for land and flat. No medium or heavy goods vehicles, including container tractors/trailers,

will be allowed to access the Site. Plans showing the vehicular access leading to the Site, 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-5** respectively.

- 1.4 The major development parameters of the current application are the same as the previously approved application, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/887	Current Application No. A/YL-TYST/1063
Applied Use	Proposed Temporary Shop and Services for a Period of 3 Years	
Site Area	About 830 m ²	
Total Floor Area (Non-domestic)	84 m ²	
No. and Height of Structures	2 • one for real estate agency (3m, 1 storey) • one for toilet (3m, 1 storey)	
No. of Parking Spaces	2 (for private car) (5m x 2.5m each)	
Operation Hours	9:00 a.m. to 7:00 p.m. daily	

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

- (a) Application Form with annexes and plans received on 16.11.2020 **(Appendix I)**
- (b) Supplementary Information (SI) received on 19.11.2020 providing revised estimated traffic generation data **(Appendix Ia)**
- (c) SI received on 23.11.2020 reporting completion of drainage and landscape proposals **(Appendix Ib)**
- (d) Further Information (FI) received on 26.11.2020 providing FSIs proposal and clarification on the proposed operation **(Appendix Ic)**
- (e) FI received on 5.3.2021 providing responses to departmental comments **(Appendix Id)**
- (f) FI received on 29.3.2021 reporting completion of drainage facilities **(Appendix Ie)**
[(d) to (f) exempted from publication and recounting requirements]

- 1.6 On 8.1.2021, the Committee decided to defer a decision on the application for 2 months, as requested by the applicant, to allow sufficient time for the preparation of FI to address departmental comments. The applicant submitted FI on 5.3.2021 and 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 mainly detailed in the Application Form and SI (**Appendices I to Ic**). They can be summarised as follows:

- (a) The Site has been the subject of three previous planning permissions since 2015 and is currently vacant. The drainage facilities and trees were provided in accordance with the approved drainage and landscape proposals under the last application No. A/YL-TYST/887. There has been no major change in planning circumstances since the approval of the last application.
- (b) The temporary proposal would not jeopardise the long-term planning intention of the “R(D)” zone and is compatible with the surrounding environment. Similar planning applications have also been approved by the Board.
- (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 the notice to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves three previous applications (No. A/YL-TYST/713, 819 and 887) for the same use as the current application covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.
- 5.2 Applications No. A/YL-TYST/713 and 887, covering the same extent of the Site and submitted by the same applicant, were approved with conditions each for a period of 3 years by the Committee in 2015 and 2018 respectively, mainly on the considerations that the proposals would not frustrate the long-term planning intention of the “R(D)” zone; the proposal were not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, both planning permissions were revoked in 2016 and 2020 respectively due to non-compliance with

time-limited approval conditions on implementation of landscape, drainage and FSI (for the former application only) proposals.

- 5.3 Application No. A/YL-TYST/819, covering a smaller site and submitted by a different applicant, was approved with conditions for a period of 3 years by the Committee in 2016, mainly on similar considerations as those specified in paragraph 5.2 above. However, the planning permission was revoked in 2017 due to non-compliance with time-limited approval conditions on implementation of landscape and drainage proposals as well as submission and implementation of FSI proposal.
- 5.4 Compared with the last application (No. A/YL-TYST/887), 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.

6. Similar Applications

- 6.1 There were 2 similar applications, including one rejected application (No. A/YL-TYST/918) and one approved application (No. A/YL-TYST/890), for various temporary shop and services uses within/straddling the same “R(D)” zone. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

Rejected Application (1 Case)

- 6.2 Application No. A/YL-TYST/918 for proposed temporary shop and services (retail shop for furniture and cleaning equipment) for a period of 3 years straddling the “R(D)” and the adjacent “Residential (Group B)1” (“R(B)1”) and “Government, Institution or Community” (“G/IC”) zones was rejected by the Committee in 2018 mainly on the considerations that the proposed structure (with an area of about 1,000m²) was large in scale and generally incompatible with the neighbouring church and kindergarten uses.

Approved Application (1 Case)

- 6.3 Application No. A/YL-TYST/890 for proposed temporary shop and services (retail shop for electrical appliances) for a period of 3 years was approved by the Committee in 2018, mainly on similar considerations as those specified in paragraph 5.2 above.

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

- 7.1 The Site is:
- (a) accessible from Tan Kwai Tsuen Road to its northeast via a local track (**Drawing A-1, Plans A-2 and A-3**);
 - (b) paved and fenced off; and

- (c) currently largely vacant (**Plans A-2 and A-4**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominately open storage/storage yards and warehouses with scattered residential structures, workshops, carpark, parking of trucks, construction site, an orchard, plant nurseries, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 30m to the northeast of the Site;
- (c) there are village houses to the further southwest of the Site across a nullah in an area zoned “Village Type Development” on the approved Lam Tei and Yick Yuen OZP No. S/TM-LTTY/10;
- (d) to the immediate south and southeast of the Site are areas zoned “Comprehensive Development Area” and “Green Belt” respectively on the OZP; and
- (e) the open storage/storage yards, warehouses, workshops, carpark and parking of vehicles in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comments, where applicable, 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 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. 2734 in D.D. 124 is currently covered by Short Term

Waiver (STW) No. 4455 to permit structures for the purpose of “Temporary Shop and Services (Real Estate Agency)”.

- (c) Should planning approval be given to the subject planning application, the STW holders will need to apply to her office for modification of the STW conditions where appropriate. Application(s) 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 rent or fee, as may be imposed by her department.

Traffic

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

- (a) She has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under her department’s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access of the Site.

9.1.3 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 Tan Kwai Tsuen Road.

Environment

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

Should the planning application be approved, the applicant should be advised to follow relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Landscape

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

- (a) She has no objection to the application from landscape planning perspective in view that no significant adverse landscape impact is envisaged.
- (b) According to the aerial photo of 2020 (**Plan A-3**), the Site is hard-paved with temporary structures. Existing trees are found along the perimeter of the Site which are proposed to be preserved. The Site is located in an area of miscellaneous rural fringe landscape character predominated by open storage sites, warehouses, carparks and tree clutters. The proposed development is considered not incompatible with the landscape character of the surrounding area.
- (c) Should the application be approved by the Board, it is considered appropriate to impose an approval condition requiring implementation of the accepted landscape proposal to the satisfaction of the Director of Planning or of the Board.

Drainage

9.1.6 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. The submission and implementation of the drainage proposal is considered acceptable to his department.
- (b) Should the Board consider the application acceptable from the planning point of view, an approval condition requiring the maintenance of the implemented drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.
- (c) There is no public sewer connection available in the vicinity, the applicant shall seek views and comments from DEP regarding the sewage disposal arrangement of the proposed development.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction. The submitted FSIs proposal (**Drawing A-5**) is considered acceptable.
- (b) The applicant should be reminded of the detailed comments at

Appendix V.

Building Matters

9.1.8 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 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 V.**

Long-Term Development

9.1.9 Comments of the Project Team Leader/Housing, Civil Engineering and Development Department (PTL/H, CEDD):

- (a) He has no objection to the application for temporary use of 3 years.
- (b) The Site is located within the proposed public housing developments at Ping Shan South, Yuen Long for which an engineering feasibility study (EFS) was commenced in June 2020. The tentative timeframe for the site to be handed over to CEDD will be at around year 2025/2026 subject to the findings of EFS and the schedule of proposed amendment to the OZP.

District Officer's Comments

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

His office has not received any feedback from the locals.

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

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

10. Public Comments Received During the Statutory Publication Period

On 24.11.2020, 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. One individual objected to the application on the ground that the proposal

would affect the rural residential character and the natural environment (**Appendix IV-1**). The other individual mainly questioned the need of the operation in the area (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of three years at the Site zoned “R(D)” on the OZP. Although the proposed development is not entirely in line with the planning intention of the “R(D)” zone, which is primarily for improvement and upgrading of existing temporary structures within the rural areas for low-rise and low-density residential development, the proposal could serve any such need for shop and services in the area. Whilst the Site falls within an area earmarked for proposed public housing development, PTL/H, CEDD has no objection to the application for temporary use of three years. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding areas comprise predominantly open storage/storage yards and warehouses with scattered residential structure (**Plan A-2**). The proposed development is generally not incompatible with the surrounding uses.
- 11.3 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 12.2 below to address the local concern and the 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 relevant environmental mitigation measures in the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 The Site involves three previous approved applications for the same use as the current application, which were all revoked between 2016 and 2020 due to non-compliance with time-limited approval conditions on submission and/or implementation of landscape, drainage and/or FSI proposals. The current application is submitted by the same applicant as two of the previous approved applications. Nevertheless, the Site is currently largely vacant and the applicant has submitted landscape, drainage and FSI proposals for the current application, which were accepted by CTP/UD&L, PlanD, CE/MN, DSD and D of FS respectively. The drainage proposal has also been implemented to the satisfaction of CE/MN, DSD. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on implementation of the remaining landscape and FSI proposals. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.

- 11.5 Given that three previous approvals for the same use as the current application have been granted to the Site and one similar application has been approved within the same “R(D)” zone, approval of the current application is generally in line with the Committee’s previous decisions. There was one similar application straddling the same “R(D)” zone and the adjacent “R(B)1” and “G/IC” zones, which was rejected by the Committee in 2018 mainly on the considerations that the proposed structure was large in scale and generally incompatible with the neighbouring church and kindergarten uses. However, such consideration is generally not applicable to the current application as the proposed structures are small in scale and generally not incompatible with the surrounding uses.
- 11.6 There were two public comments received on the application during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 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 3 years until 30.4.2024. 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) no medium or heavy goods vehicles, including container tractor/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, 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 implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the implementation of the accepted landscape 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 30.10.2021;
- (g) the implementation of the accepted fire services 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 30.10.2021;

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

Advisory clauses

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

- 12.3 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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

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 annexes and plans received on 16.11.2020
Appendix Ia	SI received on 19.11.2020
Appendix Ib	SI received on 23.11.2020
Appendix Ic	FI received on 26.11.2020
Appendix Id	FI received on 5.3.2021
Appendix Ie	FI received on 29.3.2021
Appendix II	Previous Applications covering the Site

Appendix III	Similar Applications within/straddling the same “R(D)” Zone
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Tree Preservation and Landscape Proposal
Drawing A-4	As-built Drainage Plan
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
APRIL 2021**