

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

**APPLICATION NO. A/YL-TYST/1080**

- Applicant** : Ankor Motors Limited
- Site** : Lot 2621 RP in D.D. 120, Yuen Long, New Territories
- Site Area** : 730 m<sup>2</sup> (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** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Eating Place and Shop and Services for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary eating place and shop and services for a period of 5 years (**Plan A-1**). According to the Notes of the OZP for the “OS” zone, ‘Shop and Services’ (except for Services Trade) and ‘Eating Place’ (except for Canteen) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently largely vacant with some miscellaneous objects (**Plans A-2** and **A-4**).
- 1.2 According to the applicant, the proposal is intended for a restaurant and shop selling frozen food and car-related products to serve the surrounding neighbourhood. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1** and **A-2** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Applied Use	Temporary Eating Place and Shop and Services for a Period of 5 Years
Site Area	About 730 m <sup>2</sup>
Total Floor Area (Non-domestic)	About 745 m <sup>2</sup>

No. and Height of Structures	4 <ul style="list-style-type: none"><li>two for eating place and shop and services (6.5m, 2 storeys)</li><li>two for canopy (9m, 1 storey)</li></ul>
No. of Parking and Loading/Unloading Spaces	5 (three for private car) (5m x 2.5m each) (two for heavy goods vehicle) (11m x 3m each)
Operation Hours	8:00 a.m. to 11:00 p.m. daily

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

- (a) Application Form with plans received on 26.1.2021 (Appendix I)
- (b) Further Information (FI) received on 9.3.2021 providing responses to departmental comments (Appendix Ia)
- (c) FI received on 19.3.2021 clarifying the operation hours (Appendix Ib)  
*[(b) and (c) 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 (Appendix I). They can be summarised as follows:

The proposal will bring convenience to the people living and working nearby, and optimise land resources. There will be minimal traffic, environmental, drainage and landscape 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 Ping Shan Heung 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 Application**

There is no previous planning application covering the Site.

## **6. Similar Application**

There is one similar planning application (No. A/YL-TYST/996) for temporary shop and services within the subject “OS” zone, which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board in 2020, mainly on considerations that the development was generally not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. Details of the application are summarised at **Appendix II** and the location of the site is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Shan Ha Road to its west via a local track;
- (b) partly paved and fenced off; and
- (c) currently largely vacant with some miscellaneous objects.

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

- (a) mixed in character comprising predominately open storage/storage yards, warehouses and scattered residential structures, car servicing, ruins, parking of buses and a construction site;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 50m to its southwest;
- (c) to the immediate west is an area zoned “Residential (Group D)” (“R(D)”) and to the further north is an area zoned “Government, Institution or Community (2)” (“G/IC(2)”) on the OZP; and
- (d) except for four warehouses located at the further northeast and further southeast of the Site, the other open storages/storage yards, warehouse and car servicing within the nearby “R(D)” and/or “G/IC(2)” zones 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 “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

## **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 relevant, 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) Should planning approval be given to the subject planning application, the lot owner will need to apply to her office to permit the structures to be erected or 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 as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

### **Traffic**

9.1.2 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 and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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 Shan Ha Road.

### **Environment**

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located about 50m to its southwest) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (c) 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**

#### 9.1.5 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.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

### **Fire Safety**

#### 9.1.6 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 of the detailed comments at **Appendix IV**.

### **Building Matters**

#### 9.1.7 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 IV**.

### **Long-Term Development**

#### 9.1.8 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 “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls partly within an area zoned “Other Specified Uses (Mixed Use)” (“OU(MU)”) 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 5 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.

#### 9.1.9 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 2 Phase 1 (the project). Based on the latest programme of the project, land clearance at the Site 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.
- (c) The programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. Should the planning application be

approved, the applicant should be advised that the Site might be subject to land resumption for the implementation of the YLS Development – Stage 2 Phase 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 erect new structures or carry out any substantial works in view of the planned YLS Development – Stage 2 Phase 1. The applicant shall be responsible for removal of any structures falling within the project limit when required by the government within required time limit. His department will give sufficient notice to relevant department(s) for early resumption of the Site if his department's works commence early.

### **Food and Environmental Hygiene**

#### 9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

Proper licence/permit issued by his department is required if there is any catering service/activities regulated by him under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The applicant should be reminded of the detailed comments at **Appendix IV**.

### **District Officer's Comments**

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

Her office has not received any feedback from locals.

#### 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);  
and
- (c) Commissioner of Police (C of P).

## **10. Public Comments Received During the Statutory Publication Period**

On 2.2.2021, 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 grounds that the proposal will cause adverse environmental and fire safety impacts on the surrounding area (**Appendix III-1**). The other individual raised concerns on the environmental hygiene, drainage and sewerage aspects of the proposal (**Appendix III-2**).

## **11. Planning Considerations and Assessments**

11.1 The application is for proposed temporary eating place and shop and services for a period of 5 years at the Site zoned “OS” on the OZP. Although the proposal is

not in line with the planning intention of the “OS” zone, which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses, it is mainly intended to serve the residents and workers nearby. Whilst the Site falls partly within an area zoned “OU(MU)” and partly within an area shown as ‘Road’ on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application. Although 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 five years would not jeopardise the long-term development of the Site. Should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site may be resumed by the Government at any time during the planning approval period for the implementation of YLS Development – Stage 2 Phase 1.

- 11.2 The surrounding area comprises predominantly warehouses and open storage/storage yards (**Plan A-2**). While there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located about 50m to its southwest) (**Plan A-2**), and the proposal will cause traffic of heavy vehicles; environmental nuisance is expected. In this connection, relevant approval conditions are recommended in paragraph 12.2 below to minimise any potential environmental nuisances or 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 latest Code of Practice to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that one similar application for temporary shop and services use has been approved in the subject “OS” zone, approval of the current application is generally in line with the Committee’s previous decision.
- 11.5 There were two public comments received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 summarised 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 5 years until

26.3.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 11:00 p.m. and 8:00 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) the existing trees on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of 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 26.9.2021;
- (e) in relation to (d) above, 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 26.12.2021;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.9.2021;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.12.2021;
- (i) if any of the above planning conditions (a), (b), (c) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (j) if any of the above planning conditions (d), (e), (g) or (h) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:

- (a) the proposed use is not in line with the planning intention of the “OS” zone which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the proposed development would not generate adverse environmental impact on the surrounding area.

### **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**

<b>Appendix I</b>	Application Form with plans received on 26.1.2021
<b>Appendix Ia</b>	FI received on 9.3.2021
<b>Appendix Ib</b>	FI received on 19.3.2021
<b>Appendix II</b>	Similar Application hwithin the subject “OS” zone on the OZP
<b>Appendices III-1 and III-2</b>	Public Comments received during the Statutory Publication Period
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Application
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2021**