

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

**APPLICATION NO. A/YL-TYST/1087**

- Applicant** : Mr. Xu Sen Lin represented by Metro Planning and Development Company Limited
- Site** : Lots 1286 (Part), 1287 (Part), 1290 (Part), 1314 (Part) and 1316 (Part) in D.D. 119 and Adjoining Government Land (GL), Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 516 m<sup>2</sup> (about) (including GL of about 130m<sup>2</sup> (about 25%))
- 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 C)” (“R(C)”)  
*[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)]*
- Application** : Renewal of Planning Approval for Temporary Shop and Services 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 for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “R(C)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by cold storage of chilled poultry without planning permission (**Plans A-2 and A-4**).
- 1.2 The Site involves two previous applications for the same use as the current application. The last application (No. A/YL-TYST/894) for the same use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 1.6.2018. All the time-limited approval conditions under the last application had been complied with and the permission is valid up to 3.7.2021. 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.

No workshop activities will be carried out at the Site. No medium goods vehicle, heavy goods vehicle and container trailer/tractor will be allowed to enter/park at the Site. Plans showing the vehicular access leading to the Site, the site layout, landscape 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 largely the same as the previously approved application No. A/YL-TYST/894, which are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TYST/894 (a)</b>	<b>Current Application No. A/YL-TYST/1087 (b)</b>	<b>Difference (b) – (a)</b>
Applied Use	Temporary Shop and Services for a Period of 3 Years		--
Site Area	About 516 m <sup>2</sup> (including GL of about 130 m <sup>2</sup> )		--
Total Floor Area (Non-domestic)	About 221 m <sup>2</sup>		--
No. and Height of Structures	2 • one for shop (grocery store) (6.2m, 1 storey) • one for toilet (3.2m, 1 storey)		--
No. of Parking Spaces	2 (for private car/ light goods vehicle)		--
Operation Hours	7:00 a.m. to 9:00 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 4.3.2021 **(Appendix I)**
- (b) Further Information (FI) received on 15.3.2021 clarifying the operation hours **(Appendix Ia)**
- (c) FI received on 17.3.2021 providing FSIs proposal with fire certificate and clarifying the operation **(Appendix Ib)**
- (d) FI received on 19.3.2021 providing FSIs proposal with revised fire certificate and clarifying the operation **(Appendix Ic)**
- (e) FI received on 19.4.2021 providing responses to department comments and revising the operation hours **(Appendix Id)**  
*[(b) to (e) 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:

- (a) The Site was the subject of two previous planning permissions for the same use as the current application. All the approval conditions imposed to the last application (No. A/YL-TYST/894) had been complied with.
- (b) The temporary proposal would not jeopardise the long-term planning intention and would help phase out undesirable uses in the area. A number of similar applications have been approved by the Board in the “R(C)” zone. The nature, form, scale and layout of the proposal are compatible with the surrounding environment.
- (c) There will be minimal traffic and environmental 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. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

### **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/737 and 894 were approved with conditions each for a period of 3 years by the Committee in 2015 and 2018, 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. All the time-limited approval conditions of the last application have been complied with and the planning permission is valid until 3.7.2021.
- 6.3 Compared with the last application (No. A/YL-TYST/894), 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.

## **7. Similar Applications**

- 7.1 A total of 12 similar applications for various temporary shop and services with/without other uses within/straddling the subject “R(C)” zone had been considered by the Committee since 2012. Details of the applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.
- 7.2 Out of the 12 similar applications, 10 were approved mainly on similar considerations that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, all the planning permissions were revoked due to non-compliance with approval conditions.
- 7.3 The remaining two applications (No. A/YL-TYST/905 and 914) were rejected by the Committee or the Board on review in 2018 mainly on the grounds that the applicant had failed to demonstrate that the proposed development would not cause adverse drainage or environmental impact on the surrounding area, amongst other grounds.

## **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 via a local track;
  - (b) paved and fenced off; and
  - (c) currently occupied by cold storage of chilled poultry without valid planning permission (**Plans A-2 and A-4**).
- 8.2 The surrounding areas have the following characteristics:
- (a) comprise predominantly open storage/storage yards and warehouses with scattered residential structures, parking of vehicles, a plant nursery, shrubland and vacant land/structures;
  - (b) there are residential structures in the vicinity of the Site with the nearest one located about 20m to its southwest;
  - (c) to the further west of the Site is an area zoned “Undetermined” (“U”) on the OZP; and
  - (d) except for one warehouse in the vicinity operating with valid planning permission (application No. A/YL-TYST/1060), the other open storage/storage yards, warehouses and parking of vehicles in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

## **9. Planning Intention**

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

## **10. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) The Site comprises GL and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot Nos. 1286 and 1287 in D.D.119 are covered by Short Term Waiver (STW) Nos. 4705 and 4706 respectively to permit structures erected thereon for the purpose of “Temporary Shop (Grocery Store)”.
- (c) The GL within the Site is covered by Short Term Tenancy (STT) No. 3082 for the purpose of “Temporary Shop (Grocery Store)”.
- (d) Should planning approval be given to the subject planning application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

### **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 sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drainage.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

**Environment**

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

- (a) There are no substantiated environmental complaints 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 proposed development.
- (b) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-TYST/894.
- (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/894 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 VI**.

### **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.

### **Food and Environmental Hygiene**

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

- (a) There is at present no valid food licence issued to the subject location nor any application for food licences received by his department's Licensing Office.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI**.

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

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

His office has not received any feedback from locals.

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

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

## **11. Public Comment Received During Statutory Publication Period**

On 12.3.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received objecting to the application on the grounds that the applied use will cause adverse environmental and fire safety impacts on the surrounding area (**Appendix V**).

## **12. Planning Considerations and Assessment**

- 12.1 The application is for renewal of planning approval for temporary shop and services for a period of 3 years at a site zoned “R(C)” on the OZP. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Although the applied use is not entirely in line with the planning intention of the “R(C)” zone, there is no known programme for long-term development on the Site. The applied use could serve any such need for shop and services in the area. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site.
- 12.2 The surrounding areas comprise predominantly open storage/storage yards and warehouses (**Plan A-2**). While 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/894 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 local concern and 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 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, and to note that the planning permission does not condone any other development/use not covered by the application.
- 12.5 Given that two previous approvals for the same use as the current application have been granted to the Site and 10 similar applications within/straddling the same “R(C)” zone have been approved since 2012, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.6 There is one public comment received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

## **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comment summarised in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years and be renewed



from 4.7.2021 to 3.7.2024. 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 medium or heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site 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 trees on the Site shall be maintained at all times during the approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the existing fire service installations implemented on the Site shall be maintained in efficient working order 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 4.10.2021;
- (h) if any of the above planning conditions (a), (b), (c), (d), (e) 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
- (i) 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), (e) and (g) are the same as those under the permission for application No. A/YL-TYST/894, conditions (a) and (f) have been updated as per the current proposal, and the reinstatement clause is deleted to accord with the department's latest requirements.]*

Advisory clauses

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

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

the applied use is not in line with the planning intention of the “R(C)” zone which is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. 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**

<b>Appendix I</b>	Application Form with plans received on 4.3.2021
<b>Appendix Ia</b>	FI received on 15.3.2021
<b>Appendix Ib</b>	FI received on 17.3.2021
<b>Appendix Ic</b>	FI received on 19.3.2021
<b>Appendix Id</b>	FI received on 19.4.2021
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 34C
<b>Appendix III</b>	Previous Applications covering the Site
<b>Appendix IV</b>	Similar Applications within/straddling the same “R(C)” zone
<b>Appendix V</b>	Public Comment received during the Statutory Publication Period
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Drawing A-3</b>	Landscape Proposal
<b>Drawing A-4</b>	As-built Drainage Proposal
<b>Drawing A-5</b>	FSIs Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT**  
**APRIL 2021**