

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1092

- Applicant** : Man Wong Limited represented by Troika Engineering Limited
- Site** : Lot 293 RP (Part) in D.D. 127, Hung Shun Road, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : 65.3 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 B)1” (“R(B)1”)
[Restricted to a maximum plot ratio of 1 and building height of 4 storeys over single-storey carpark (15m)]
- 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-1a**). According to the Notes of the OZP for the “R(B)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 The Site involves seven previous applications for various public vehicle park uses or shop and services (real estate agency) with eating place use. The last application (No. A/YL-TYST/824) for similar shop use (albeit with eating place) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 3.2.2017. However, the planning permission was revoked on 3.8.2017 due to non-compliance with time-limited approval conditions on implementation of drainage proposal, as well as submission of tree preservation and landscape and fire service installations (FSIs) proposals. Compared with the last application, the current application is submitted by a different applicant for similar shop use albeit without eating place covering a smaller site with slightly different site layout and similar development parameters.
- 1.3 According to the applicant, the proposed temporary shop is intended to serve the surrounding neighbourhood by providing real estate agency services. The

proposed structure will be a 2-storeys reinforced concrete building of a temporary nature to be assembled at the Site. Loading/unloading (L/UL) activities (about twice per day) will be carried out on Hung Shun Road in front of the Site. No tree felling and land filling will be carried out. Plans showing the site layout, floor layout and landscape proposal submitted by the applicant are at **Drawings A-1** to **A-3** respectively.

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

Major Development Parameters	Previously Approved Application No. A/YL-TYST/824 (a)	Current Application No. A/YL-TYST/1092 (b)	Difference (b)-(a)
Applied Use	Proposed Temporary Shop and Services (Real Estate Agency) and Eating Place for a Period of 3 Years	Proposed Temporary Shop and Services for a Period of 3 Years	Omission of eating place
Site Area	About 137.4 m ²	About 65.3 m ²	-72.1 m ² (-52%)
Total Floor Area (Non-domestic)	About 137.4 m ²	About 130.6 m ²	-6.8 m ² (-5%)
No. and Height of Structure	1 • for shop and services and eating place (7.6m, 2 storeys)	1 • for shop and services (7.6m, 2 storeys)	---
No. of Parking and L/UL Spaces	---	---	---
Operation Hours	9:30 a.m. to 9:30 p.m. daily		---

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

- (a) Application Form with plans received on 30.3.2021 **(Appendix I)**
- (b) Further Information (FI) received on 24.5.2021 clarifying **(Appendix Ia)** the proposed operation
[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. There will be minimal traffic, environmental, drainage and landscape impacts arising from the proposal. The proposal is compatible with the surrounding area.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. 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 seven previous applications, including three applications (No. A/YL-TYST/569, 755 and 824) for temporary shop and services (real estate agency) with eating place covering a similar site. All three applications were approved with conditions each for a period of 3 years by the Committee between 2012 and 2017, 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. However, all three planning permissions were revoked between 2013 and 2017 due to non-compliance with time-limited approval conditions on submission and/or implementation of tree preservation and landscape, drainage and FSIs proposals. Nevertheless, none of the previous three approvals had been implemented at the Site. Compared with the last application (No. A/YL-TYST/824), the current application is submitted by a different applicant for a similar shop and services use (without eating place) covering a smaller site with slightly different site layout and similar development parameters.

5.2 The remaining four previous applications (No. A/YL-TYST/52, 58, 106 and 114) were for various public vehicle park uses covering much larger sites and not related to the current proposed shop and services use. Details of all seven previous applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

6. Similar Application

There is one similar planning application (No. A/YL-TYST/918) for proposed temporary shop and services (retail shop for furniture and cleaning equipment) straddling the adjacent "Residential (Group D)" ("R(D)") zone, which was rejected by the Committee in 2018 mainly on the grounds that the scale of the proposed shop was too large and generally incompatible with the neighbouring church and kindergarten uses, and not in line with the planning intention of the "R(D)" zone. Details of the application are summarised at **Appendix III** and the location of the site is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) abutting Hung Shun Road to its west; and
- (b) currently paved and vacant.

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

- (a) comprising predominately residential developments (including The Woodside, Uptown and The Woodville to its north, east and south respectively), with two schools, an electricity substation, car servicing, parking of vehicles, a restaurant and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one (i.e. Tower 2 of The Woodville) located about 5m to its south;
- (c) to the north is an area zoned “R(B)2” and “Government, Institution or Community”, while to the further east is an area zoned “Comprehensive Development Area” on the OZP; and
- (d) except for a public vehicle park operating with valid planning permission (No. A/YL-TYST/934), the other car servicing, parking of vehicles and restaurant 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(B)” zone is for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to 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 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) The subject lot is covered by a Short Term Waiver (STW) No. 3672 for the purposes of “Shop and Services (Real Estate Agency) and Eating Place”.
- (c) Should planning approval be given to the subject planning application, the STW holder will need to immediately 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. 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 Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) He has no comment from highways maintenance point of view as no vehicular access is proposed or to be granted under the subject application.
- (b) The applicant should be advised of the detailed comments at **Appendix V.**

Environment

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

Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the 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

9.1.4 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) There are existing public stormwater drain and sewer at Hung Shun Road for drainage and sewage connection of the subject development.
- (c) 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

9.1.5 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.
- (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 V**.

Building Matters

9.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

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

Her office has not received any locals' comment on the subject application and she has no comment from departmental point of view.

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

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

10. Public Comments Received During the Statutory Publication Period

10.1 On 13.4.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 36 public comments were received. Of which, 31 raised objection, four expressed adverse comments and one supported the application. A full set of public comments will be deposited at the meeting for Members' inspection.

Objection/Adverse Comments (35 Comments)

10.2 Objections/adverse comments were received from a member of the Yuen Long District Council (**Appendix IV-1**), The Incorporated Owners of The Woodville (including signatures from its residents, **Appendix IV-2**), The Incorporated Owners of The Woodside (**Appendix IV-3**), the vice-principal of Ho Dao College (**Appendix IV-4**) and various individuals (extracted samples at **Appendices IV-5**

to IV-8). The salient issues of the objections and adverse comments are summarised as follows:

Adverse Traffic, Environmental and Safety Impacts

- (a) Hung Shun Road is a cul-de-sac that is prone to traffic congestion with considerable illegal parking taking place. Approval of the application will likely worsen the situation. The proposal will cause adverse traffic impacts to the area, jeopardise road safety and cause inconvenience to road users and pedestrians, especially students.
- (b) The proposal will destroy the tranquil living environment, attract vice activities and generate environmental pollution, environmental hygiene impacts and fire safety risks on the surrounding area.

Others

- (c) Approval conditions of the previous three applications have never been fulfilled, which suggests that the applicant is unlikely able to comply with the relevant requirements.
- (d) The proposal is not in line with the planning intention for residential uses for the area. There is no demand for another shop in the vicinity, which are already plentiful in Hung Shui Kiu.

Supporting Comment (1 Comment)

- 10.3 One individual supported the proposed development without stating the grounds (Appendix IV-9).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years at the Site zoned “R(B)” on the OZP. The planning intention of the “R(B)” zone is primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Although the proposed use is not entirely in line with the planning intention of the “R(B)1” zone, it could serve any such need for shop and services in the area. Moreover, there is no known development programme at the Site and its adjoining undeveloped area. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the Site.
- 11.2 The proposal is small in scale and generally not incompatible with the surrounding area, which comprises predominantly residential developments and schools (**Plan A-2**).
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP, CE/MN of DSD, D of FS and C of P. Adverse impacts on traffic, environmental, drainage, fire safety and public security to the surrounding area are not envisaged. Furthermore, relevant approval conditions are recommended in

paragraph 12.2 to address the local concerns 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.

- 11.4 The Site involves seven previous applications for various uses. The last three applications (No. A/YL-TYST/569, 755 and 824) for proposed shop and services (real estate agency) with eating place were approved with conditions each for a period of 3 years by the Committee between 2012 and 2017. Subsequently, the planning permissions were revoked between 2013 and 2017 due to non-compliance with time-limited approval conditions on submission and/or implementation of tree preservation and landscape, drainage and FSIs proposals. Although the current application is for a similar shop and services use, it is submitted by a different applicant and the Site is currently vacant. Furthermore, none of the previous three approvals had been implemented at the Site. As such, the current application could be considered afresh. Nevertheless, in view of the past revocation history associated with the Site, should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions.
- 11.5 Given that three previous approvals for similar shop and services (albeit with eating place) use have been granted to the Site, approval of the current application is generally in line with the Committee's previous decisions. Although there is one similar application rejected by the Committee, it was mainly located within the adjacent "R(D)" zone and the Committee considered the proposal not in line with the planning intention of the "R(D)" zone. Such consideration is generally not applicable to the current application as the Site is located within an area zoned "R(B)1".
- 11.6 There were 36 public comments received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 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 3 years until 28.5.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:30 p.m. and 9:30 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) the submission of a drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.8.2021;
- (c) in relation to (b) above, the implementation of the 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 28.11.2021;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.8.2021;
- (f) in relation to (e) above, the implementation of the 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 28.11.2021;
- (g) if any of the above planning conditions (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (h) if any of the above planning conditions (b), (c), (e) or (f) 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 Member's reference:

the proposed use is not in line with the planning intention of the "R(B)" zone which is primarily for sub-urban medium-density residential developments in rural areas. 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 plans received on 30.3.2021
Appendix Ia	FI received on 24.5.2021
Appendix II	Previous Applications covering the Site
Appendix III	Similar Application straddling the subject “R(B)1” zone on the OZP
Appendices IV-1 and IV-9	Public Comments received during the Statutory Publication Period (extracted)
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Floor Plans
Drawing A-3	Landscape Plan
Plan A-1a	Location Plan with Similar Application
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2021**