

RNTPC Paper No. A/YL-TYST/1095
For Consideration by
the Rural and New Town
Planning Committee
on 25.6.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1095

- Applicant** : Ms. CHOI Wai Ching represented by Metro Planning and Development Company Limited
- Site** : Lots 1140 S.D RP, 1141 S.C, 1141 S.D ss.2, 1141 S.D RP, 1142 S.G, 1142 S.H, 1142 S.I, 1142 S.K (Part) and 1152 S.C RP in D.D. 121 and adjoining Government Land (GL), Tong Yan San Tsuen Road, Yuen Long, New Territories
- Site Area** : 1,893 m² (about) (including GL of about 7 m² (about 0.3 %))
- Lease** : Tai Po New Grant No. 7133 (for agricultural purposes) and Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Government, Institution or Community” (“G/IC”) (about 58.9%); and
“Residential (Group B)1” (“R(B)1”) (about 41.1%)
[Restricted to a maximum plot ratio of 1, maximum site coverage of 40% and building height of 4 storeys over single-storey carpark (15m)]
- Application** : Proposed Temporary Shop and Services and Wholesale of Carpet 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 and wholesale of carpet for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “G/IC” and “R(B)” zones, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board) and ‘Wholesale Trade’ is a Column 1 use in the “G/IC” zone which is always permitted. The covering Notes of the OZP also states that temporary use or development of any land or building not exceeding a period of three years requires permission from the Board notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently formed and vacant (**Plans A-2 and A-4**).
- 1.2 The Site involves four previous applications for the same use as the current application. The last application (No. A/YL-TYST/940) was approved with

conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 1.2.2019. However, the planning permission was revoked on 1.5.2021 due to non-compliance with time-limited approval conditions on submission and implementation of fire service installations (FSIs) proposal. Compared with the last application, the current application is submitted by a different applicant for the same use at the same site with similar site layout and development parameters.

- 1.3 According to the applicant, the proposed temporary shop is intended to serve the surrounding neighbourhood by selling carpets. No medium and heavy goods vehicle, including container trailer/tractor, will be allowed to enter the Site. Plans showing the proposed internal layout and as-built drainage facilities submitted by the applicant are at **Drawings A-1** and **A-2** 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/940 (a)	Current Application No. A/YL-TYST/1095 (b)	Difference (b)-(a)
Applied Use	Proposed Temporary Shop and Services and Wholesale of Carpet for a Period of 3 Years		---
Site Area	About 1,893 m ² (including about 7 m ² of GL)		---
Total Floor Area (Non-domestic)	About 1,893 m ²		---
No. and Height of Structure	1 • for shop and services (carpet shop), wholesale of carpet and toilet (7.5m, 1 storey)		---
No. of Parking Spaces	---	4 (for private car) (5m x 2.5m each)	+4 spaces
No. of Loading/Unloading Spaces	1 (for light goods vehicle) (7m x 3.5m)		---
Operation Hours	9:00 a.m. to 6:00 p.m. daily		---

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

- Application Form with annex and plans received on 26.4.2021 (**Appendix I**)
- Further Information (FI) received on 3.6.2021 responding to departmental comments (**Appendix Ia**)
- FI received on 4.6.2021 providing a revised layout plan (**Appendix Ib**)
- FI received on 16.6.2021 responding to departmental comments (**Appendix Ic**)
[(b) to (d) 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 four previous planning permissions and has been occupied by the applied use since 2009. Similar shop and services have been approved in the area. The temporary proposal would not jeopardise the long-term planning intention and it is not incompatible with the surrounding environment.
- (b) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Ping Shan 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. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves four previous applications for the same use on largely the same/ the same 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/445, 622, 767 and 940 were all approved with conditions each for a period of 3 years by the Committee between 2009 and 2019, mainly on the considerations that the proposals were not incompatible with the surrounding environment; the applications could be tolerated since there was no confirmed school development programme for the part of the Site within the “G/IC” zone and no current proposal for residential development on the part of the Site within the “R(B)1” zone; adverse environmental impacts on the surrounding areas was not anticipated; 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, the planning permissions under applications No. A/YL-TYST/445 and 940 were revoked in 2012 and 2021 respectively due to non-compliance with time-limited approval conditions on submission and implementation of FSIs proposal.

- 5.3 Compared with the last application (No. A/YL-TYST/940), the current application is submitted by a different applicant for the same use at the same site with similar site layout and development parameters.

6. Similar Applications

- 6.1 There are seven similar applications for various temporary shop and services with/without eating place within/straddling the subject “R(B)1” zone, while there is no similar application for the subject “G/IC” 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/915 was rejected by the Committee in 2018 mainly on the grounds that the proposed outdoor motor vehicle showroom was not in line with the planning intention of the “R(B)1” zone; no strong planning justification was given in the submission for a departure from the planning intention even on a temporary basis; the scale of the proposed motor-vehicle showroom was excessive; and the applicant did not demonstrate the need for the proposed development in the area.

Approved Applications (6 cases)

- 6.3 Applications No. A/YL-TYST/473, 709, 785, 820, 859 and 1029 were all approved with conditions each for a period of 1 or 3 year(s) by the Committee between 2010 and 2020, 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, 3 of the 6 planning permissions were revoked between 2011 and 2017 due to non-compliance with approval conditions.

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

- 7.1 The Site is:

- (a) abutting Tong Yan San Tsuen Road to its south; and
- (b) formed and currently vacant.

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

- (a) mixed in nature with open storage/storage yards and warehouses intermixed with scattered residential structures, a low-rise residential development (i.e. The Parkhill), ruins, parking of vehicles, orchard 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 across Tong Yan San Tsuen Road;

- (c) to the further north of the Site are areas zoned “G/IC”, “Open Space” and “Other Specified Uses” annotated “Storage and Workshop Use” on the OZP; and
- (d) except for an open storage to the further northwest of the Site, 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.

8. Planning Intentions

- 8.1 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community (GIC) facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.
- 8.2 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.

9. Comments from Relevant Government Departments

- 9.1 The following Government bureau and 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 of a New Grant Lot and 8 Old Schedule Agricultural Lots (OSALs). Lot No. 1152 S.C. RP in D.D. 121 is held under Tai Po New Grant No. 7133 for agricultural purposes. The OSALs were 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) No permission is given for occupation of GL (about 7m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Lots No. 1152 S.C RP, 1140 S.D RP, 1141 S.C, 1141 S.D ss.2, 1141 S.D RP, 1142 S.G, 1142 S.H and 1142 S.I in D.D.121 are covered by Short Term Waivers (STWs) No. 5254 and 5255 respectively to permit structures erected thereon for the purpose

of “Temporary Carpet Shop and Wholesale of Carpet”.

- (d) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office for a STW to (i) waive the user restriction as stipulated in the lease conditions, if any, and/or (ii) permit the structures to be erected and/or (iii) regularise any irregularities on site, if any. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. 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

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 Tong Yan San Tsuen 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 Tong Yan San 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 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.
- (b) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those maintained under the previous planning application No. A/YL-TYST/940.
- (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/940 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.

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 FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. 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

9.1.7 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**.

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 the “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 within an area zoned “Residential – Zone 5” (“R5”).
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

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

- (a) He has no objection to the application.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the Site falls within the boundary of the proposed YLS Development – Stage 4. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 4 is being formulated.

District Officer’s Comments

9.1.10 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 bureau/departments have no comment on the application:

- (a) Secretary for Education (SED);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 4.5.2021, 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 proposed

development will cause adverse environmental impact and fire hazard on the surrounding area (**Appendix IV-1**). The other individual raised concerns on the revocation history of the previous planning permission (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services and wholesale of carpet at a site straddling the “G/IC” (about 58.9%) and “R(B)1” (about 41.1%) zones on the OZP. The planning intentions of the “G/IC” and “R(B)” zones are primarily for the provision of GIC facilities and for sub-urban medium-density residential developments respectively. Although the proposed development is not in line with the planning intentions of the “G/IC” and “R(B)” zones, the proposal could serve any such needs for shop and services in the area. Whilst the “G/IC” zone covering part of the Site is reserved for the provision of a primary school, there is no programme for the school development and SED has no comment on this aspect. Moreover, there is no current proposal for residential development on the part of the Site which is zoned “R(B)1”. Whilst the Site falls within an area zoned “R5” on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the application. 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 area is mixed in nature comprising open storage/storage yards, warehouses and residential uses (**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 from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will 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 four previous applications for the same use as the current application. The last application (No. A/YL-TYST/940) was approved with conditions for a period of 3 years by the Committee in 2019. Subsequently, the planning permission was revoked in 2021 due to non-compliance with time-limited approval conditions on submission and implementation of FSIs proposal. Although the current application is for the same use as the previous application, it is submitted by a different applicant and the Site is currently vacant. As such, the current application could be considered afresh.
- 11.5 Given that four previous approvals for the same applied use have been granted to the Site and six similar applications have been approved within/straddling the subject “R(B)1” zone, approval of the current application is generally in line with the Committee’s previous decisions. Although there is one similar application (for outdoor motor vehicle showroom) rejected by the Committee in 2018, it was

rejected mainly on the grounds of excessive scale and incompatibility with the surrounding area. Such consideration is generally not applicable to the current application which is relatively small in scale and considered not incompatible with the neighbouring uses.

- 11.6 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 11.5 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 considers that the proposed temporary shop and services and wholesale of carpet could be tolerated for a period of 3 years.
- 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 25.6.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 25.9.2021;
- (e) 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 25.12.2021;
- (f) in relation to (e) 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 25.3.2022;
- (g) if any of the above planning conditions (a), (b) or (c) 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 (d), (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 intentions of the "G/IC" and "R(B)" zones which are primarily for the provision of GIC facilities and sub-urban medium-density residential developments in rural areas respectively. No strong planning justification has been given in the submission to justify a departure from the planning intentions, 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 annex and plans received on 26.4.2021
Appendix Ia	FI received on 3.6.2021
Appendix Ib	FI received on 4.6.2021
Appendix Ic	FI received on 16.6.2021
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within/straddling the subject "R(B)1" zone on the OZP
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	As-built Drainage Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**