

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

**APPLICATION NO. A/YL-TYST/1103**

- Applicant** : Ms. Lam Yuk Kuen represented by Metro Planning & Development Company Limited
- Site** : Lots 1279 S.A (Part), 1298 (Part) and 1301 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 760 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14 currently in force  
Draft Tong Yan San Tsuen OZP No. S/YL-TYST/13 at the time of submission
- Zoning** : “Residential (Group C)” (“R(C)”)  
[Restricted to a maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]  
[No change to the “R(C)” zone]
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Indoor Recreation Centre) 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 place of recreation, sports or culture (indoor recreation centre) for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP for the “R(C)” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a warehouse for storage of construction materials without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves six previous applications for various temporary uses (**Plan A-1b**). The last application (No. A/YL-TYST/1091) for proposed temporary shop and services use was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 28.5.2021. Compared with the last application,

the current application is submitted by a different applicant for a different use at the same site with different development parameters.

- 1.3 According to the applicant, the proposal will provide two badminton courts within two air-conditioned structures to serve nearby residents. The subject site will be rented out to a badminton club and will be commercially operated in a professional manner. A 9m headroom is proposed to meet the standards for a badminton court. A toilet and changing room of 25 m<sup>2</sup> floor area will be provided. Only private cars are allowed to access/park at the Site. The applicant also undertakes to cease the existing warehouse operation and demolish the existing structures at the Site. Plans showing the vehicular access leading to the Site, site layout, internal layout and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the current application and the previously rejected application are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Rejected Application No. A/YL-TYST/1091 (a)</b>	<b>Current Application No. A/YL-TYST/1103 (b)</b>	<b>Difference (b)-(a)</b>
Proposed Use	Proposed Temporary Shop and Services for a Period of 3 Years	Proposed Temporary Place of Recreation, Sports or Culture (Indoor Recreation Centre) for a Period of 3 Years	Change in Use
Site Area	About 760 m <sup>2</sup>		--
Total Floor Area (non-domestic)	About 745 m <sup>2</sup>	About 456 m <sup>2</sup>	-289 m <sup>2</sup> (-38.8%)
No. and Height of Structures	1 • for shop and services (grocery store), toilet, staff room and store room (6.5m, 1 storey)	2 • for indoor recreation centre (badminton courts), toilet and changing room (9m, 1 storey)	+1 (+100%)
No. of Loading/ Unloading Space(s)	1 (for light goods vehicle) (7m x 3.5m)	--	-1
No. of Parking Space(s)	--	2 (for private car) (2.5m x 5m each)	+2
Operation Hours	9:00 a.m. to 5:00 p.m. daily		--

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annex and plans received on (Appendix I) 5.7.2021
- (b) Supplementary Information received on 8.7.2021 (Appendix Ia)
- (c) Further Information (FI) received on 13.8.2021 (Appendix Ib)  
[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 and Supplementary Information (**Appendices I and Ia**). They can be summarised as follows:

- (a) The proposal conforms to the planning intention of the “R(C)” zone. There is no similar facilities adjacent to the Site. The proposal provides recreation outlet for the nearby residents (estimated to be over 800 in the surrounding area) and will benefit the community. The height of the proposal is reasonable for badminton games. The nature, scale and layout of the proposal is compatible with the surrounding environment.
- (b) Similar proposal has been approved within “Residential (Group D)”, “Residential (Group B)1” and “Government, Institution or Community” zones in the area.
- (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 the notice to the Shap Pat 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 Applications**

- 5.1 The Site involves six previous applications for temporary warehouse and/or shop and services with/without eating place covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

### ***Rejected Applications (3 cases)***

- 5.2 Applications No. A/YL-TYST/525 and 586 for temporary warehouse uses were rejected by the Committee and the Board on review in 2011 and 2012 respectively, mainly on the grounds that the developments were not in line with the planning intention of the “R(C)” zone and the developments would generate adverse environmental and/or traffic impacts on the surrounding area.
- 5.3 Application No. A/YL-TYST/1091 for proposed temporary shop and services covering the same site was rejected by the Committee on 28.5.2021 on the grounds

that approval of application with repeated non-compliance with approval conditions would set an undesirable precedent for other similar applications for temporary uses, thus nullifying the statutory planning control mechanism.

***Approved Applications (3 cases)***

- 5.4 Applications No. A/YL-TYST/620, 714 and 873 for temporary shop and services (grocery store) (with eating place for the first application) were all approved with conditions each for a period of 3 years by the Committee between 2012 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. However, all three planning permissions were revoked between 2014 and 2020 due to non-compliance with time-limited approval conditions on submission (for the first application only) and/or implementation of fire service installations (FSIs) proposal.
- 5.5 Compared with the last application (No. A/YL-TYST/1091), the current application is submitted by a different applicant for a different use at the same site with different development parameters.

**6. Similar Application**

There is no similar application within the subject “R(C)” zone.

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

7.1 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 a warehouse for storage of construction materials without valid planning permission.

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

- (a) comprise predominately warehouses and open storage/storage yards with scattered residential structures, parking of vehicles, a vehicle repair workshop and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate east;
- (c) to the further south of the Site is an area zoned “Undetermined” (“U”) on the OZP; and
- (d) except for one storage yard at the northeast of the Site and one warehouse in the nearby “U” zone operating with valid planning permission (No.

A/YL-TYST/1100), the other warehouses, open storage/storage yards, parking of vehicles and workshop 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(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.

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

9.1 The following government departments have been consulted and their views on the application 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 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 No. 1279 S.A in D.D. 119 is covered by Short Term Waiver (STW) No. 3724 to permit structures erected thereon for the purpose of “Eating Place and Shop (Grocery Store)”, while Lot No. 1298 in D.D. 119 is covered by STW No. 3599 to permit structures erected thereon for the purpose of “Temporary Warehouse for Storage of Building Materials (Ceramic Tiles)”.
- (c) 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 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**

### 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 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 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 Kung Um 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 Aspect of Temporary Uses and Open Storage Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding area.

## **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, the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/873.
- (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/873 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. 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 reminded 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**.

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

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

Her office has not received any comment from the locals on the application.

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

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

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

On 13.7.2021, 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 questioning the authenticity of the proposed indoor recreation centre (**Appendix III**).

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

- 11.1 The application is for proposed temporary place of recreation, sports or culture (indoor recreation centre) for a period of 3 years at the 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 proposed use is not entirely in line with the planning intention of the “R(C)” zone, the proposal is intended to serve the recreation needs of the local residents and there is no known programme for the long-term development of the Site. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The proposed indoor recreation centre would be carried out within two 9m-high air-conditioned structures, in which the high headroom is to comply with the relevant operational standards under the Hong Kong Planning Standards and Guidelines (i.e. the 9m headroom and 13.4m x 6.1m dimension for badminton court). Given the nature and scale of the proposal, the proposed indoor recreation centre is considered not entirely incompatible with the intended low-rise, low-density residential uses in the “R(C)” zone, which is subject to a building height restriction of 3 storeys (9m).
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP and CE/MN, DSD. It is anticipated that the proposed use would not generate significant traffic, environmental and drainage impacts on the surrounding areas. 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, including uses not covered by the current application, 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, and to note that the planning permission does not condone any other development/use found on Site but not covered by the application.
- 11.4 There is no similar application within the subject “R(C)” zone. While the Site is subject to six previous applications, none of which were for proposed place of recreation, sports or culture use and the considerations thereof are thus not relevant to the current application.
- 11.5 There is one public comment raising queries on the application as summarised in paragraph 10. 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 comment mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 27.8.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) only private cars, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site 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 27.11.2021;
- (d) 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 27.2.2022;
- (e) in relation to (d) 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 27.5.2022;
- (f) if any of the above planning conditions (a) or (b) 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
- (g) if any of the above planning conditions (c), (d) or (e) 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 Alternately, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the proposed development is not in line with the planning intention of the "R(C)" zone, which is primarily for low-rise and low-density residential developments.

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**

<b>Appendix I</b>	Application Form with annex and plans received on 5.7.2021
<b>Appendix Ia</b>	Supplementary Information received on 8.7.2021
<b>Appendix Ib</b>	FI received on 13.8.2021
<b>Appendix II</b>	Previous Applications covering the Application Site
<b>Appendix III</b>	Public Comment 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>	Layout Plan
<b>Drawing A-3</b>	Internal Layout Plan
<b>Drawing A-4</b>	As-built Drainage Plan
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2021**