

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

**APPLICATION NO. A/YL-TYST/1120**

- Applicant** : Mr. Law Chun Chung represented by Metro Planning and Development Company Limited
- Site** : Lot 1071 S.A RP (Part) in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 460 m<sup>2</sup> (about) (including GL of about 38 m<sup>2</sup> or 8.3 %)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Residential (Group B)1” (“R(B)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 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-1**). 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 formed and currently vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposal is for a temporary shop selling construction materials (including metal ware and hand tools) to serve the nearby residents. No workshop activity will be carried out at the Site. Plans showing the proposed site layout and drainage proposal submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

<b>Site Area</b>	About 460 m <sup>2</sup>
<b>Total Floor Area (Non-domestic)</b>	About 190 m <sup>2</sup>

<b>No. and Height of Structure</b>	1 • for shop and toilet (4.5m, 1 storey)
<b>No. of Parking Space(s)</b>	2 (for private car) (5m x 2.5m each)
<b>No. of Loading/Unloading Space</b>	1 (for light goods vehicle) (7m x 3.5m)
<b>Operation Hours</b>	9:00 a.m. to 7:00 p.m. daily

- 1.4 In support of the application, the applicant has submitted an Application Form with annexes and plans received on 23.9.2021 (**Appendix I**).

## **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) Similar shop and services have been approved in the area. The temporary proposal would not jeopardise the long-term planning intention of the “R(B)1” zone 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 Application**

The Site is not involved in any previous application.

## **6. Similar Applications**

- 6.1 There are 12 similar applications for various temporary shop and services with/without other uses within/straddling the subject “R(B)1” zone. Details of the

applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

***Approved Applications (11 cases)***

- 6.2 Applications No. A/YL-TYST/445, 473, 622, 709, 767, 785, 820, 859, 940, 1029 and 1095 were all approved with conditions each for a period of 1 or 3 year(s) by the Committee between 2009 and 2021, 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, the planning permissions for applications No. A/YL-TYST/445, 473, 709, 785, 940 were subsequently revoked between 2011 and 2021 due to non-compliance with approval conditions.

***Rejected Application (1 case)***

- 6.3 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 failed to demonstrate the need for the proposed development in the area.

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

- 7.1 The Site is:

- (a) abutting Sha Tseng Road and a local road to its east and north respectively; and
- (b) formed, fenced off and currently vacant.

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

- (a) comprise predominately low-rise residential structures/developments and vacant land/structures, with scattered open storage/storage yards, workshops, a refuse collection point and religious institutions;
- (b) there are residential structures and developments (namely Marbella Gardens, Kisland Villa and The Eldorado) in the vicinity of the Site with the nearest residence located to its immediate south;
- (c) to the further northwest and east of the Site are areas zoned “Government, Institution or Community”, “Open Space” and “Residential (Group D)” on the OZP; and
- (d) the open storage/storage yards and a vehicle repair workshop in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

## **8. Planning Intention**

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 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 GL and 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) No permission is given for occupation of GL (about 38 m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the application, the lot(s) owner(s) 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. Furthermore, the applicant has to either exclude the GL from the application site or apply for a formal approval prior to the actual occupation of the GL. 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(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

### **Traffic**

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track/run-in/out leading to the Site from Sha Tseng 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 to prevent surface water running from the Site to nearby public roads and drains.
- (b) The access road connecting the Site with Sha Tseng Road is not and will not be maintained by his department. His department shall not be responsible for the maintenance of any access connecting the Site and Sha Tseng 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 from the public drainage point of view and no adverse comment on the submitted drainage proposal.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposals to the satisfaction of the Director of Drainage Services or of the Board should be stipulated. The applicant should also be reminded of the detailed comments at **Appendix IV**.

**Fire Safety**

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.

- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be advised of the detailed comments at **Appendix IV**.

### **Building Matters**

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

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.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (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 5.10.2021, 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 objects to the application on the grounds that the proposed will generate adverse environmental and fire safety impacts to the surrounding area (**Appendix III-1**). The other individual raises concerns that the proposed use would undermine the planning intention (**Appendix III-2**).

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

- 11.1 The application is for proposed temporary shop and services at a site zoned "R(B)1" on the OZP. The planning intention of the "R(B)" zone is primarily for sub-urban medium-density residential developments. Although the proposed development is not in line with the planning intention of the "R(B)" zone, the proposal could serve any such needs 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 area.

- 11.2 The surrounding area mainly comprises residential structures/developments and vacant land/structures (**Plan A-2**). While there are residential structures in the vicinity, the development is small in scale and generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP, D of FS and CE/MN, DSD. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. 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 There is no previous application concerning the Site. Given that 11 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.
- 11.5 There were two public comments objecting/raising concerns on the application respectively as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments 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 12.11.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (b) the implementation of the accepted 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 12.5.2022;

- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all time during the planning approval period;
- (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 12.5.2022;
- (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 12.8.2022;
- (f) if any of the above planning conditions (a) 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
- (g) if any of the above planning conditions (b), (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 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 for 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 annexes and plans received on 23.9.2021



<b>Appendix II</b>	Similar Applications within/straddling the subject “R(B)1” zone on the OZP
<b>Appendices III-1 and III-2</b>	Public Comments received during the Statutory Publication Period
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Proposed Drainage Plan
<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  
NOVEMBER 2021**