

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

APPLICATION NO. A/YL-TYST/1143

- Applicant** : Ms. CHAN Wai Fong represented by Metro Planning and Development Company Limited
- Site** : Government Land in D.D. 124, Tan Kwai Tsuen Road, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : 102 m² (about)
- Land Status** : Government Land (GL)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Residential (Group B)3” (“R(B)3”)
[Restricted to a maximum plot ratio of 1, maximum site coverage of 40% and building height of 12 storeys including car park (36m)]
- 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 for temporary shop and services for a period of 3 years at the application site (the Site) (**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 currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/948 (**Plans A-2 and A-4**).
- 1.2 The Site involves one previous application (No. A/YL-TYST/948) for the same use as the current application at the same site (**Plan A-1**), which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 22.3.2019. All the time-limited approval conditions of the planning permission have been complied with and the planning permission is valid until 22.3.2022. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters.

- 1.3 According to the applicant, the proposal is for a temporary shop selling grocery and home appliances to serve the nearby residents. No parking and loading/unloading (L/UL) activity will be carried out at Tan Kwai Tsuen Road. The L/UL of goods via a light van will be carried out at the public vehicle park at Hung Shun Road (**Plan A-3**) and the goods will be delivered to the Site by trolley. Plans showing the site layout, internal layouts and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL-TYST/948, which are summarised as follows:

| Major Development Parameters | Previously Approved Application No. A/YL-TYST/948 | Current Application No. A/YL-TYST/1143 |
|--|--|---|
| Applied Use | Temporary Shop and Services for a Period of 3 Years | |
| Site Area | About 102 m ² | |
| Total Floor Area (Non-domestic) | About 204 m ² | |
| No. and Height of Structures | 1 • for shop, ancillary storage, site office and toilet (5m, 2 storeys) | |
| No. of L/UL Space(s) or Parking Space(s) | Nil | |
| Operation Hours | 9:00 a.m. to 8:00 p.m. daily | |

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 3.1.2022 (Appendix I)
 - (b) Supplementary Information received on 7.1.2022 (Appendix Ia)
 - (b) Further Information (FI) received on 25.1.2022 (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 (**Appendix I**). They can be summarised as follows:

- (a) The Site was the subject of a previous planning permission for the same shop and services use and all the time-limited approval conditions had been complied with. 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)” zone. The proposal is not incompatible with the surrounding environment.
- (b) There will be minimal traffic and environmental impacts arising from the proposal.

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

As the Site involves GL only, the “Owner’s Consent/ Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable to the application.

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. 34D) 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 Application

The Site involves one previous application (No. A/YL-TYST/948) for the same use at the same site as the current application, which was approved with conditions by the Committee in 2019 for a period of three years mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term development of the area; the development was not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. All the time-limited approval conditions of the planning permission have been complied with and the planning permission is valid until 22.3.2022. Details of the application are summarised in **Appendix III** and the boundary of the site is shown on **Plan A-1**. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters.

7. Similar Application

There is no similar application within the subject “R(B)3” zone.

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

8.1 The Site is:

- (a) abutting Tan Kwai Tsuen Road to its east; and
- (b) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/948.

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

- (a) comprise predominately workshops, warehouses/storage yards, parking of vehicles, low-rise residential structures/developments, shops and services, a logistics centre, a school, vacant land/structures and shrubland;
- (b) there are residential structures and developments in the vicinity of the Site with the nearest residence located about 70m to its south;
- (c) to the east and north are areas zoned “R(B)1”, “Government, Institution or Community” and “Residential (Group A)” on the OZP; and
- (d) some warehouses, shop, workshop and parking of vehicles in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. 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.

10. Comments from Relevant Government Departments

- 10.1 The following government departments have been consulted and their views on the application 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 is situated on GL (about 102m²) and is covered by Short Term Tenancy (STT) No. 3216 to permit structures erected thereon for the purpose of “Temporary Shop and Services (Convenience Store)”.
- (b) Should planning approval be given to the application, the STT holder will need to apply to her office for modification of the STT conditions where appropriate. 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

- 10.1.2 Comments of the Commissioner for Transport (C for T):

She has no adverse comment on the application from traffic engineering point of view.

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

Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

10.1.4 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

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 application.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Water Supply

10.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The applicant should be reminded of the detailed comments at **Appendix IV**.

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.

District Officer's Comments

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

His office has not received any comment from the locals.

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

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 11.1.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary shop and services at the Site zoned "R(B)3" on the OZP. The planning intention of the "R(B)" zone is primarily for sub-urban medium-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 aforesaid planning intention, the proposal could serve any such need for shop and services in the area. Given that there are no known development plans for the Site, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 12.2 The surrounding area mainly comprises workshops, warehouses and shop and services (**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.
- 12.3 The application is generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstance since the previous approval was granted; approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the last application No. A/YL-TYST/948 had been complied with; and the three-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, 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 13.2 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.

- 12.5 There is no similar application within the subject “R(B)3” zone. Given that one previous approval for the same use has been approved at the Site, approval of the current application is generally in line with the Committee’s previous decision.
- 12.6 There is no public comment received on the application during the statutory public inspection period.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department has no objection to the renewal 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 23.3.2022 to 22.3.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a drainage proposal within **6** 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 23.9.2022;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** 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 23.12.2022;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) if any of the above planning condition (c) 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

- (f) if any of the above planning condition (a) or (b) 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 (a) to (c) are imposed as per DSD's comment, condition (d) has been updated as per the current application, and restrictions on operation hours and L/UL arrangement have been removed as per the department's latest requirement.]

Advisory clauses

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

- 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(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.

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

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| Appendix I | Application Form with plans received on 3.1.2022 |
| Appendix Ia | Supplementary Information received on 7.1.2022 |
| Appendix Ib | FI received on 25.1.2022 |
| Appendix II | Relevant Extracts of TPB PG-No. 34D |
| Appendix III | Previous Application covering the Site |
| Appendix IV | Recommended Advisory Clauses |
| Drawing A-1 | Site Layout Plan |
| Drawing A-2 | Internal Layout Plan |
| Drawing A-3 | FSIs Plan |

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|-----------------|---|
| Plan A-1 | Location Plan with Previous Application |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |

**PLANNING DEPARTMENT
FEBRUARY 2022**