

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

**APPLICATION NO. A/YL-TYST/1145**

- Applicant** : High Asset Limited represented by Anders Surveyors Company Limited
- Site** : Lots 1145 S.P RP and 1145 S.Q RP in D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 744.7 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
- Zoning** : “Open Space” (“O”)
- Application** : Proposed Temporary Shop and Services for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 5 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “O” zone, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently largely vacant (**Plans A-2 to A-4**) and not involved in any previous application.
- 1.2 The Site is accessible from Tong Yan San Tsuen Road (**Plan A-2**). According to the applicant, the proposal is for a retail shop serving the local residents. A single-storey structure of 4.5m high with gross floor area of about 186 m<sup>2</sup> is proposed for shop and services use with ancillary office. Solar panels will be installed on the rooftop of the structure. A site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 The major development parameters of the application are summarised as follows:

<b>Proposed Use</b>	Proposed Temporary Shop and Services for a Period of 5 Years
<b>Site Area</b>	744.7 m <sup>2</sup> (about)
<b>Total Floor Area (Non-domestic)</b>	186 m <sup>2</sup> (about)

<b>No. and Height of Structure</b>	1 for retail use (about 4.5m, 1 storey)
<b>No. of Parking Spaces</b>	5 (for private cars) (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 8:00 p.m. daily

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

- (a) Application Form received on 5.1.2022 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Supplementary Information received on 12.1.2022 (Appendix Ib)
- (d) Further Information received on 25.2.2022 (Appendix Ic)  
*[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 Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) The proposed shop and services use is temporary in nature and would not jeopardise the long-term planning intention of the “O” zone. The proposed shop is small in scale and is considered compatible with the surrounding environment.
- (b) Similar applications for shop and services have been approved by the Board.
- (c) Photovoltaic panels will be installed atop the proposed shop, which could help minimise carbon emissions. There will be no adverse ecological, environmental and traffic impacts arising from the proposal.

## 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 Application**

The Site is not involved in any previous application.

## 6. **Similar Applications**

There are three similar applications (No. A/YL-TYST/799, 973 and 1101) for shop and services use concerning one site within the subject “O” zone. All three applications were approved mainly on similar considerations that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the proposals were

not incompatible with the surrounding uses; there were no adverse comments/objection from relevant departments; and the departmental and public concerns could be addressed by imposing approval conditions. However, the planning permission for one of them was subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

## **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 east (**Plan A-2**);
- (b) paved and fenced-off; and
- (c) currently largely vacant (**Plans A-2 to A-4**).

### **7.2 The surrounding areas have the following characteristics (**Plans A-2 to A-4**):**

- (a) mixed in character, comprising predominantly warehouses, open storage/storage yards, vehicle repair workshops, car parks, two concrete batching plants, a residential structure and some vacant/unused land within and straddling the subject “O” zone and the adjoining “Other Specified Uses” annotated “Storage and Workshop Use” zone;
- (b) to the south of the Site are mainly residential developments (including Park Hillcrest and Kam Lai Garden) with scattered warehouses and storage yard in the adjoining “Residential (Group B)1” (“R(B)1”) zone, with the nearest residence located about 15m to the south of the Site; and
- (c) some of the warehouses, open storage/storage yards, vehicle repair workshop and car parks within the subject “O” and “R(B)1” zones 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 “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

## **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 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) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or to 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):

The land between the entrance of the proposed development and Tong Yan San Tsuen Road is not under her purview. The applicant should be reminded of the detailed comments at **Appendix IV**.

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

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

### **Environment**

#### 9.1.4 Comments of the Director of Environmental Protection (DEP):

Should the 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.
- (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.

### **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. 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 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**.

### **Open Space**

#### 9.1.8 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) He has no in-principle objection to the proposal.
- (b) The Site is not on the priority list for development agreed by the Yuen Long District Council. His department has no plan to develop the Site into public open space at present.

### **Long-Term Development**

#### 9.1.9 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 of YLS promulgated in May 2020, the Site falls within an area zoned “District Open Space” (“DO”).

- (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 5 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.

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

- (a) He has no objection to the application.
- (b) However, the Site falls within the boundary of YLS Development – Stage 2 Phase 2. The land resumption and clearance programme of the project is subject to Executive Council's authorisation on land resumption and Finance Committee's funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 2 Phase 2.

**District Officer's Comments**

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

His office has not received any comments from the locals.

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

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

**10. Public Comments Received During the Statutory Publication Period**

On 14.1.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four comments were received from individuals. Two individuals object to the application on the grounds that the proposed use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendices III-1 and III-2**). One individual raises concerns/ objects to the application due to the lack of detailed information submitted by the applicant (**Appendix III-3**). Another individual mainly questions the intentions of the applicant (**Appendix III-4**).

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

- 11.1 The application is for proposed temporary shop and services for a period of 5 years at the Site zoned “O” on the OZP. Although the proposed use is not in line with the planning intention of the “O” zone, which is primarily for the provision of outdoor open-air public space, the proposed retail shop could serve any such need of shop and services in the area. Moreover, DLCS has no in-principle objection to the application and PM(W), CEDD has no objection to the application for temporary use. As such, approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the “O” zone.
- 11.2 The surrounding area is mixed in character comprising predominantly residential developments/structures and warehouses (**Plan A-2**). Although there are residences nearby, the proposed use is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application 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 other 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 also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.
- 11.4 There is no previous application concerning the Site. Given that three similar applications for temporary shop and services use have been approved by the Committee within the subject “O” zone, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 There are four comments objecting/raising concerns received during the statutory publication period 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 5 years until 4.3.2027. 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.9.2022;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.12.2022;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times 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 4.9.2022;
- (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 4.12.2022;
- (f) if the above planning condition (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 condition (a), (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 Members' reference:

the proposed use is not in line with the planning intention of the "O" zone which is primarily for the provision of outdoor open-air public space. 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 received on 5.1.2022
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	Supplementary Information received on 12.1.2022
<b>Appendix Ic</b>	FI received on 25.2.2022
<b>Appendix II</b>	Similar Applications within the Subject “O” Zone
<b>Appendices III-1 to III-4</b>	Public Comments received during the Statutory Publication Period
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout 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  
MARCH 2022**