

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1148

- Applicant** : Hang Sing Limited represented by Metro Planning and Development Company Limited
- Site** : Lot 1654 S.A (Part) in D.D. 121, Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 626 m² (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** : “Village Type Development (1)” (“V(1)”)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of 3 years and excavation of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House is a Column 2 use requiring planning permission from the Town Planning Board (the Board). Any excavation of land within the “V” zone also requires planning permission from the Board. The Site is currently occupied by open storage use without valid planning permission (**Plans A-2 to A-4**) and not involved in any previous application.
- 1.2 The Site is accessible from Shan Ha Road via a local track (**Plan A-2**). According to the applicant, the proposal is for a retail shop providing building materials (including sanitary tiles, marble and tiles) to serve local residents. Two single-storey structures for the shop, site office and toilet will be erected on the Site. No medium or heavy goods vehicles, including container tractors/trailers, will be allowed to access the Site. Excavation of land (at a depth of about 0.3m covering an area of about 30 m²) is proposed for provision of surface U-channel at the periphery of the Site. Plans showing the vehicular access leading to the Site, site

layout, drainage proposal and extent of land excavation submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.3 The major development parameters of the application are summarised as follows:

Proposed Use	Proposed Temporary Shop and Services for a Period of 3 Years and Excavation of Land
Site Area	626 m ² (about)
Total Floor Area (Non-domestic)	285 m ² (about)
No. and Height of Structures	2 • for shop, site office and toilet (3.5-4.5m, 1 storey)
No. of Parking Spaces	2 (for private cars) (5m x 2.5m each)
No. of Loading/ Unloading Space	1 (for light goods vehicle) (7m x 3.5m)
Operation Hours	9:00 a.m. to 7:00 p.m. daily

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

- (a) Application Form with annexes and plans received on 19.1.2022 (**Appendix I**)
- (b) Further Information (FI) received on 10.3.2022 (**Appendix Ia**)
[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 proposed shop and services use is temporary in nature and would not jeopardise the long-term planning intention of the “V(1)” 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) There will be insignificant drainage, environmental and traffic 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 Ping Shan Rural Committee through 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 Application

The Site is not involved in any previous application.

6. Similar Application

There is no similar application within the subject “V(1)” zone.

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

7.1 The Site is:

- (a) accessible via a local track leading from Shan Ha Road to its northwest (**Drawing A-1** and **Plan A-2**);
- (b) paved and fenced-off; and
- (c) currently occupied by open storage use without valid planning permission (**Plans A-2** to **A-4**).

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

- (a) comprise predominantly open storage/storage yards with scattered residential structures, warehouses, car servicing, car park, construction sites, shrubland and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate south;
- (c) to the west, further north and south of the Site are areas zoned “Village Type Development”, “Open Space” and “Residential (Group A)3” respectively on the OZP; and
- (d) except for one car servicing and five open storage/storage yards and warehouses operating with valid planning permissions (No. A/YL-TYST/980, 994, 1093, 1114, 1123 and 1128), the other warehouses, car park and car servicing 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 “V(1)” zone is to provide land considered suitable for reprovisioning of village houses affected by Government projects.

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 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) 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 local track leading to the Site is not under her purview. The applicant should be reminded of the detailed comments at **Appendix III**.

- 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 III**.

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) She 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 proposal 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 III**.

Water Supply

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

He has no objection to the application and the applicant should be reminded of the detailed comments at **Appendix III**.

Fire Safety

9.1.7 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 III**.

Building Matters

9.1.8 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 III**.

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” (the YLS Study). According to the Revised Recommended Outline

Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area zoned “Residential – Zone 6” (“R6”).

- (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.

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

- (a) He has no objection to the application for temporary use for 11 months.
- (b) The Site falls within the boundary of YLS Development – Stage 1 (the project). To meet the target first population intake under the project by Q4 of 2028, land clearance is planned to commence in Q3 2022 subject to Finance Committee’s funding approval of the project by Q2 2022. The programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted.
- (c) Should the application be approved by the Board, an advisory clause should be stipulated to remind the applicant that the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 1. His department will give sufficient notice to relevant department(s) for early resumption of the Site if his department's works commence early.

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 comment from the locals.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 28.1.2022, 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 use will generate adverse environmental and fire safety impacts on the surrounding area (**Appendix II-1**). The other individual queries the validity of his comments submitted to the Board (**Appendix II-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of 3 years and excavation of land at the Site zoned “V(1)” on the OZP. Although the proposed use is not in line with the planning intention of the “V(1)” zone, which is to provide land considered suitable for reprovisioning of village houses affected by Government projects, the proposed retail shop could serve any such need for shop and services in the area. Moreover, PM(W), CEDD has no objection to the application for temporary use for 11 months. Nevertheless, the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. As such, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term development of the area. Should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site may be resumed by the Government at any time during the planning approval period for the implementation of YLS Development – Stage 1 and no substantial works should be carried out at the Site in view of the project.
- 11.2 The surrounding area comprises predominantly open storage/storage yards and warehouses (**Plan A-2**). Although there are residential structures 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. The applicant has also justified the need of excavation of land for provision of drainage facilities at the Site, for which the extent and scale are not significant. 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 and that the planning permission does not condone any other uses not covered by the application but currently existing on the Site.
- 11.4 There is no previous application concerning the Site and no similar application within the subject “V(1)” zone.
- 11.5 There are two public comments objecting to/raising queries on the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant. Regarding one individual’s queries on his submitted comments, no previous comment(s) from the same individual was received by the Board on the subject application.

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 18.3.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implementation of the accepted 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 18.12.2022;
- (b) in relation to (a) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) 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 18.9.2022;
- (d) in relation to (c) 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 18.12.2022;
- (e) if the above planning condition (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
- (f) if any of the above planning condition (a), (c) or (d) 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 III**.

- 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 "V(1)" zone which is to provide land considered suitable for reprovisioning of village houses affected by Government projects. 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

Appendix I	Application Form with annexes and plans received on 19.1.2022
Appendix Ia	FI received on 10.3.2022
Appendices II-1 and II-2	Public Comments received during the Statutory Publication Period
Appendix III	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Drawing A-4	Excavation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**