

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

**APPLICATION NO. A/YL-TYST/1158**

- Applicant** : Ms. WONG Chun Yim
- Site** : Lot 388 RP in D.D. 121 and Adjoining Government Land (GL), Fui Sha Wai South Road, Yuen Long, New Territories
- Site Area** : 310 m<sup>2</sup> (about) (including GL of about 125 m<sup>2</sup> or 40.3%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Comprehensive Development Area” (“CDA”)  
*[restricted to a maximum gross floor area of 69,000m<sup>2</sup> and a maximum building height of 17 storeys]*
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed 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 “CDA” 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 a largely vacant structure (**Plans A-2 and A-4**).
- 1.2 The Site is abutting Fui Sha Wai South Road to its northeast. According to the applicant, the proposal is for a shop selling beverages, packed food and daily necessities (including rice, cooking oil and toilet paper, etc.) to serve the nearby residents. Plans showing the site layout and drainage proposal submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 The Site is the subject of two previous applications (No. A/YL-TYST/716 and 939) (details at paragraph 5 below).
- 1.4 The major development parameters of the current application and the previously approved application No. A/YL-TYST/939 are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/939 (a)	Current Application No. A/YL-TYST/1158 (b)	Difference (b) – (a)
Applied/Proposed Use	Temporary Shop and Services for a Period of 3 Years		---
Site Area	About 310 m <sup>2</sup>		---
Total Floor Area (Non-domestic)	255 m <sup>2</sup> (about)		---
No. and Height of Structures	3 • for open shed, store room, site office and toilet (3-6.5m, 1-2 storeys)		---
No. of Loading/ Unloading Space	Nil		---
No. of Parking Spaces	4 (for private car/light van) (5m x 2.5m each)	2 (for private car/light van) (5m x 2.5m each)	-2 (-50%)
Operation Hours	9:00 a.m. to 8:00 p.m. daily	9:00 a.m. to 8:00 p.m., with no operation on Sundays and Public Holidays	Shorter Operation Hours

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

- (a) Application Form with annex and plans received on 21.4.2022 **(Appendix I)**
- (b) Supplementary Information received on 26.4.2022 **(Appendix Ia)**
- (c) Supplementary Information received on 27.4.2022 **(Appendix Ib)**
- (d) Further Information (FI) received on 2.6.2022 **(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 Application Form **(Appendix I)**. They can be summarised as follows:

- (a) The proposal can support the daily needs of the nearby residents and provide job opportunities to the residents nearby.
- (b) The proposal can put the Site into better use.

## 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 by registered post. Detailed information would be deposited at the meeting

for Members' inspection. For GL portion, the requirements as set out in TPB PG-No. 31A are not applicable.

#### **4. Background**

- 4.1 The Site is currently not subject to planning enforcement action.
- 4.2 The Site is a piece of residual land that was not acquired for the development of the existing comprehensive residential development (Uptown) covering the majority of the subject "CDA" zone and is not covered by the Master Layout Plan (MLP) of the said development.

#### **5. Previous Applications**

- 5.1 The Site involves two approved previous applications for various temporary shop and service uses at the same Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.
- 5.2 Applications No. A/YL-TYST/716 and 939 for similar temporary shop and services use were both approved with conditions by the Committee in 2015 and 2019 respectively each for a period 3 years, mainly on the considerations that the proposals were not incompatible with the surrounding uses; approval of the applications on a temporary basis 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 two planning permissions were subsequently revoked in 2016 and 2021 respectively due to non-compliance with approval conditions.
- 5.3 Compared with the last application (A/YL-TYST/939), the current application is submitted by a different applicant for the same use at the same site with almost the same site layout and development parameters (except for reduction of two parking spaces for private car/light van) albeit with shorter operation hours (see paragraph 1.4).

#### **6. Similar Application**

There is no similar application within the subject "CDA" zone.

#### **7. Planning Intention**

The planning intention of the "CDA" zone is for comprehensive development/redevelopment of the area for residential use with the provision of open space, commercial and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

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

8.1 The Site is:

- (a) abutting Fui Sha Wai South Road to its northeast (**Plan A-2**);
- (b) paved and partly fenced off; and
- (c) occupied by a largely vacant structure (**Plan A-4**).

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

- (a) comprise predominately residential developments and structures, intermixed with refuse collection points, substation, open storage/storage yards, parking of vehicles and vacant land/structures;
- (b) there is a residential development (namely Uptown) adjoining the Site;
- (c) to its further north and northeast across the elevated Hung Tin Road are areas zoned “Government, Institution or Community” (“G/IC”) and “Village Type Development” respectively on the OZP; and
- (d) except for the car parks within the “G/IC” zone, the other parking of vehicles and open storage/storage yards in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

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

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and the public comment received and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

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

On 29.4.2022, 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 V-1**). Another individual raises concerns on the revocation history of the Site (**Appendix V-2**).

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

11.1 The application is for proposed temporary shop and services at the Site zoned “CDA” on the OZP. The Site is a piece of residual land that was not acquired for the development of the existing comprehensive residential development (Uptown) covering the majority of the subject “CDA” zone and is not covered by the MLP of

the said development. Although the proposed use is piecemeal and hence not entirely in line with the “CDA” zone which is for comprehensive development/redevelopment of the area, there is currently no known development proposal or programme for long-term development on the Site. As such, approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the Site.

- 11.2 The proposal is generally not incompatible with the surrounding area, which comprises predominantly residential developments (**Plan A-2**).
- 11.3 There is no adverse comment from concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. 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 below 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 also be advised to follow the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Use” to minimise any potential environmental impact on the surrounding areas.
- 11.4 There is no similar application within the subject “CDA” zone. Given that two previous approvals for the same use have been granted to the Site, approval of the current application is generally in line with the Committee’s previous decisions. Although the previous approvals were revoked due to non-compliance with approval conditions, the current application is submitted by a different applicant and the Site is currently occupied by a vacant structure. It can be considered as a fresh application.
- 11.5 There are two public comments objecting to/raising concerns on the application received 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 above 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 10.6.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a revised 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 10.12.2022;
- (b) in relation to (a) above, the implementation of the revised 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 10.3.2023;
- (c) in relation to (b) above, the implemented drainage facilities 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 10.12.2022;
- (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 10.3.2023;
- (f) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 10.12.2022;
- (g) in relation to (f) above, the implementation of the run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 10.3.2023;
- (h) 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
- (i) if any of the above planning condition (a), (b), (d), (e), (f) or (g) 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 "CDA" zone which is for comprehensive development/redevelopment of the area for residential use with the provision of open space, commercial and other supporting facilities, if any. No strong planning justification had 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 21.4.2022
<b>Appendix Ia</b>	Supplementary Information received on 26.4.2022
<b>Appendix Ib</b>	Supplementary Information received on 27.4.2022
<b>Appendix Ic</b>	FI received on 2.6.2022
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendices V-1 and V-2</b>	Public Comments received during the Statutory Publication Period
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Drainage Proposal
<b>Plan A-1</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2022**