

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1186

- Applicant** : Mr. CHAN Wah Tat represented by Metro Planning and Development Company Limited
- Site** : Lot 1075 (Part) in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 680 m² (about) (including GL of about 122 m² or 17.9%)
- 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 for proposed temporary shop and services for a period of three years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “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 open storage of vehicles and miscellaneous items without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposal is for a private car shop to serve the nearby residents. No workshop activity will be carried out at the Site. Plans showing the site layout and drainage proposal submitted by the applicant are at **Drawings A-1 to A-2** respectively.
- 1.3 The major development parameters of the current application are summarised as follows:

Site Area	About 680m ²
Total Floor Area	Not more than 520m ²

(Non-domestic)	
No. and Height of Structure	3 for shop and services, site offices, toilet and guard room (7m, 2 storeys)
No. of Loading/ Unloading Space	Nil
No. of Parking Spaces	4 for private car (5m x 2.5m each)
Operation Hours	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 Attachments dated 22.9.2022 (**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) the proposal can meet the needs of the residents living in the vicinity;
- (b) 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; and
- (c) 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 the notice to the Ping Shan Rural Committee by registered post. 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 14 similar applications for temporary shop and services uses with/without other uses within/straddling the subject “R(B)1” zone considered by the Rural and New Town Planning Committee (the Committee) of the Board between 2009 and 2022. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Out of the 14 applications, 13 applications were approved by the Committee each for a period of one or three years mainly on 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 five of them were subsequently revoked due to non-compliance with approval conditions.
- 6.3 The remaining application (No. A/YL-TYST/915) was rejected by the Committee in 2018 on the grounds that the proposal was not in line with the planning intention of the “R(B)” zone as the scale of the proposal (an outdoor motor-vehicle showroom for the display of about 250 cars) was excessive.

7. Planning Intention

The planning intention of the “R(B)” zone is 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.

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

- 8.1 The Site is:
 - (a) abutting a local road leading off Sha Tseng Road to its east (**Plan A-2**); and
 - (b) currently paved, fenced off and occupied by open storage of vehicles and miscellaneous items without valid planning permission (**Plan A-4**).
- 8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
 - (a) comprise predominantly residential structures/developments (including The Eldorado and Kisland Villa), a temple, refuse collection point, open storage/storage yards, car parking, vehicle service workshop, a store and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate south; and
 - (c) except for the vehicle service workshop, the open storage/storage yards, store and car parking in the vicinity are suspected unauthorized developments subject to planning enforcement action.

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 advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

10. Public Comment Received During the Statutory Publication Period

On 30.9.2022, the application was published for public inspection. During the first three weeks of the statutory publication period, one public comment was received from an individual objecting to the application on the grounds that the proposed use would generate adverse environmental and fire safety impacts on the surrounding area (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services at the Site zoned “R(B)1” on the OZP. Although the proposed use is not entirely in line with the planning intention of the “R(B)” zone, the proposal could serve any such need for shop and services in the area. Given that there is no known development proposal for the Site, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The proposed use is small in scale and generally not incompatible with the surrounding area, which comprises predominantly residential developments with some open storage/storage yards, vehicle service workshop and car parking (**Plan A-2**).
- 11.3 Concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application. 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 minimise any potential environmental nuisances or to address the technical requirements of concerned government departments.
- 11.4 Given that 13 similar applications within the subject “R(B)1” zone have been approved, approval of the current application is generally in line with the Committee’s previous decisions. Although there is one similar application rejected by the Committee mainly on the grounds that the proposal was excessive, such consideration is generally not applicable to the current application which is relatively small in scale.
- 11.5 There is one public comment objecting to 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 comment 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 three years until 11.11.2025. 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 11.5.2023;
- (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 11.8.2023;
- (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 11.5.2023;
- (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 11.8.2023;
- (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 Member's reference:

the proposed use is not in line with the planning intention of the "R(B)" zone which is for sub-urban medium-density residential developments in rural areas. 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

Appendix I	Application Form with Attachments received on 22.9.2022
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Site Layout Plan
Drawing A-2	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2022**