

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1207

- Applicant** : Mr. TSOI Tak Lee represented by Goldrich Planners and Surveyors Ltd.
- Site** : Lot 1282 in D.D. 119, Yuen Long, New Territories
- Site Area** : 3,770 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** : “Residential (Group C)” (“R(C)”)
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)]
- 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 five years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “R(C)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently bisected into two portions by a local track. The northern portion is vacant and the southern portion is occupied by open storage of miscellaneous items without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Kung Um Road to its southeast via a local track (**Plans A-2 and A-3**). According to the applicant, the proposal is for motor-vehicle showroom for the display of first-hand and second-hand private cars and light goods vehicles. There will be two vehicular ingress/egress points at the southwest of the southern and northern portions of the Site. The local tracks in between will be retained and open for public access. No car beauty, washing, repairing, dismantling or other workshop activities will be carried out at the Site. No medium or heavy goods vehicles over 24 tonnes, including container tractors/trailers, will be allowed to access the Site. Plans showing the vehicular access leading to the Site, proposed site layout and drainage proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

Site Area	About 3,770 m ²
Total Floor Area (Non-domestic)	About 1,489 m ²
No. and Height of Structures	8 for open sheds and office (3.5 – 9m, 1 storey)
No. of Parking Spaces	3 (for private cars) (5m x 2.5m each) 1 (for light goods vehicle) (7m x 3.5m)
No. of Loading/Unloading Space	Nil
Operation Hours	9:00 a.m. to 6:00 p.m. daily

1.4 In support of the application, the applicant has submitted an Application Form with attachments received on 6.3.2023 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Attachment to the Application Form (**Appendix I**). They can be summarised as follows:

- (a) the proposed use is in line with the planning intention of the “R(C)” zone and a number of similar applications have been approved by the Board in the subject “R(C)” zone in the vicinity of the Site. The proposed use is in line with the previous decisions of the Board;
- (b) the proposed use can create employment opportunities for local residents and fulfil the local demand for private cars and light goods vehicles; and
- (c) there will be no adverse visual, drainage and traffic impacts arising from the proposed 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 notices to the Shap Pat Heung Rural Committee and Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was the subject of two planning enforcement cases (No. E/YL-TYST/895 and 896 covering the northern and southern portions of the Site respectively) against unauthorized developments (UDs) involving storage use (including deposit of containers) (**Plan A-2**). For E/YL-TYST/895, Enforcement Notice (EN) was issued on 7.7.2022 and

Compliance Notice was issued on 11.1.2023. For E/YL-TYST/896, EN was issued on 7.7.2022. Site inspection on 13.1.2023 revealed that the UD still continued upon expiry of the notice and prosecution action may be followed.

5. Previous Application

There is no previous planning application concerning the Site.

6. Similar Applications

6.1 A total of seven similar planning applications (No. A/YL-TYST/873, 894, 905, 914, 924, 1087 and 1091) for various shop and services uses with/without other uses within/straddling the subject “R(C)” zone had been considered by the Rural and New Town Planning Committee (the Committee) of the Board in the past five years. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

Approved Applications

6.2 Out of the seven similar applications, four applications (No. A/YL-TYST/873, 894, 924 and 1087) were approved by the Committee mainly on the 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 two of them (No. A/YL-TYST/873 and 924) were subsequently revoked due to non-compliance with approval conditions.

Rejected Applications

6.3 The remaining three applications (No. A/YL-TYST/905, 914 and 1091) were rejected by the Committee and the Board on review between 2018 and 2021 mainly on the grounds that the proposed development was not in line with the planning intention of the “R(C)” zone (for A/YL-TYST/905 only); the proposed development would generate adverse environmental or drainage impacts on the surrounding areas (for A/YL-TYST/905 and 914 only); and approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications for temporary uses, thus nullifying the statutory planning control mechanism (for A/YL-TYST/914 and 1091 only).

7. Planning Intention

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments 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-4b)

8.1 The Site is:

- (a) accessible from Kung Um Road to its southeast via a local track (**Plans A-2 and A-3**);
- (b) fenced off and partly paved (the southern portion of the Site only); and
- (c) the northern portion of the Site is vacant and the southern portion is occupied by open storage of miscellaneous items without valid planning permission (**Plans A-2 to A-4b**).

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

- (a) comprise predominately warehouses and open storage/storage yards with scattered residential structures, vehicle repair workshops, graves, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 10m to its northeast; and
- (c) except for two warehouses with valid planning permissions (No. A/YL-TYST/1097 and 1183), the remaining warehouses, open storage/storage yards and vehicle repair workshops in the vicinity are suspected UD's 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 14.3.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising concerns on the landscape and drainage impacts of the proposed use (**Appendix V**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (motor-vehicle showroom) for a period of five years at the Site zoned "R(C)" on the OZP. Although the proposed use is not entirely in line with the planning intention of the "R(C)" zone, it could serve any such need for shop and services in the area. The Site falls within the possible expansion of Yuen Long South (YLS) Development Area which is currently reviewed together with YLS Third Phase Development. In this regard, the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department and Project Manager (West), Civil Engineering and Development Department have no objection to the application. Approval of the application on a temporary basis for a period of five years would not jeopardise the long-term development of the area.

- 11.2 The proposal is generally not incompatible with the surrounding areas, which comprise predominantly warehouses and open storage/storage yards with two of them covered by valid planning permissions and scattered residential dwellings (**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 address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental impact on the surrounding areas and that the planning permission do not condone any other development/use found on the Site (i.e. open storage of miscellaneous items) but not covered by this application.
- 11.4 There is no previous application concerning the Site. Given that four similar applications within/straddling the subject “R(C)” zone have been approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions. Although there are also three similar applications (No. A/YL-TYST/905, 914 and 1091) rejected by the Committee or the Board upon review on the grounds that the proposed development was not in line with the planning intention of the “R(C)” zone; the proposed development would generate adverse environmental or drainage impacts on the surrounding areas; and approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications for temporary uses, such considerations are generally not applicable to the current application which is the first application covering the Site and no adverse environmental or drainage impacts are envisaged with relevant government departments have no objection to/no adverse comment to the application.
- 11.5 There is one public comment raising concern on the application received during the statutory public inspection 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 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 five years until 5.5.2028. 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 5.11.2023;
- (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 5.2.2024;
- (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 5.11.2023;
- (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 5.2.2024;
- (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 "R(C)" zone, which is primarily for low-rise and low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. No strong planning justification has been given in the submission for 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 6.3.2023
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Location Plan with Vehicular Access
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2023**