

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1216

- Applicant** : Well Vision Holdings Limited represented by Aikon Development Consultancy Limited
- Site** : Lots 1023 S.B RP, 1033 S.C and 1034 S.A RP (Part) in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 158 m² (about) (including GL of about 30 m² (19.0%))
- 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, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m)]
- Application** : Renewal of Planning Approval for Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for 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 the “R(B)1” zone, “Shop and Services” is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently paved and occupied by a two-storey vacant structure covered by a valid planning permission under application No. A/YL-TYST/1029 until 10.7.2023 (**Plans A-2 and A-4b**).
- 1.2 The Site is accessible from Tong Yan San Tsuen Road and Sha Tseng Road via a local track (**Plans A-2 and A-3**). According to the applicant, the current application will have no change to the applied use, layout, development parameters and operation nature of the previous application (No. A/YL-TYST/1029), which is for a store to provide daily necessities such as canned food, snacks, drinks, toilet tissue, etc. and to serve the daily needs of nearby residents. No medium or heavy goods vehicles, including container tractor/trailer, will be allowed to enter the Site. Plans

showing the vehicular access leading to the Site, site layout, landscape and tree preservation plan, as-built drainage plan and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is the subject of three previous applications (No. A/YL-TYST/785, 859 and 1029) for temporary shop and services uses approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2016 and 2020 (details at paragraph 6 below). Compared with the last application (No. A/YL-TYST/1029), the current application is submitted by the same applicant for the same use at the same site with the same layout and development parameters. The major development parameters of the current application and the last previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/1029	Current Application No. A/YL-TYST/1216
Applied Use	Temporary Shop and Services for a Period of 3 Years	
Site Area	About 158 m ²	
Total Floor Area (Non-domestic)	About 144 m ²	
No. and Height of Structure(s)	3 • for shop and services, toilet, water tank and pump room (5 – 7m, 1 – 2 storey(s))	
No. of Parking Space	1 (for private car) (5m x 2.5m)	
No. of Loading/Unloading Space	1 (for light goods vehicle) (7m x 3.5m)	
Operation Hours	7:00 a.m. to 9:00 p.m. daily	

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

- (a) Application Form with attachments received on 10.5.2023 (**Appendix I**)
- (b) Further Information (FI) received on 7.6.2023* (**Appendix Ia**)
- (c) FI received on 14.6.2023* (**Appendix Ib**)
- (d) FI received on 20.6.2023* (**Appendix Ic**)

* *accepted and exempted from publication requirements*

2. **Justifications from the Applicant**

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

- (a) the Site was the subject of an approved planning permission (No. A/YL-TYST/1029) for the same use. Approval of the application would be in line with the previous decision of the Board and would not set an undesirable precedent for other similar applications;
- (b) the current proposal is the same as the last approved application No. A/YL-TYST/1029 and all the time-limited approval conditions of the last application had been complied with. The applicant is currently looking for a new operator to serve

the daily necessity needs of nearby residents and the applicant also pledges to maintain the existing landscape treatments, drainage facilities and FSI in good conditions; and

- (c) the temporary use would not jeopardise the long-term planning intention of the area. No complaint against the applied use had been received and there will be minimal environmental impacts arising from the applied use.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is one of the “current land owners”. In respect of the other “current land owner(s)”, the applicant 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 obtaining consent from the other “current land owner(s)”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves three previous applications (No. A/YL-TYST/785, 859 and 1029) for temporary shop and services uses covering different extents of the Site. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.
- 6.2 All three applications were approved with conditions for a period of three years by the Committee between 2016 and 2020 mainly on the considerations that approval of the application on a temporary basis would not jeopardise the long-term development of the area; the development was not incompatible with the surrounding areas; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission for application No. A/YL-TYST/785 was subsequently revoked in 2017 due to non-compliance with time-limited approval condition. As for the last application (No. A/YL-TYST/1029), all the time-limited approval conditions have been complied with and the planning permission is valid until 10.7.2023.

7. Similar Applications

- 7.1 There are six similar applications for temporary shop and services with/without other uses within/straddling the subject “R(B)1” zone considered by the Committee in the past five years. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 Out of the six applications, five applications (No. A/YL-TYST/940, 1095, 1120, 1127 and 1186) were approved by the Committee each for a period of three years mainly on similar considerations as those in paragraph 6.2 above. However, the planning permission for one of them was subsequently revoked due to non-compliance with approval conditions.
- 7.3 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 display of about 250 cars) was excessive.

8. 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.

9. The Site and Its Surrounding Areas (Plans A-1a to A-4b)

9.1 The Site is:

- (a) accessible from Tong Yan San Tsuen Road and Sha Tseng Road to its north via a local track (**Plans A-2 and A-3**); and
- (b) currently paved and occupied by a two-storey vacant structure with valid planning permission under application No. A/YL-TYST/1029 (**Plans A-2 to A-4**).

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

- (a) comprise predominantly residential developments/structures intermixed with open storage/storage yards, warehouses, car park/parking of vehicles, agricultural land, ruin, unused land and vacant land/structures;
- (b) to its north across Tong Yan San Tsuen Road are residential developments, including Windsor Villa and Greenville Residence;
- (c) to its east are unused land, and parking of vehicles and warehouses which are suspected unauthorized developments (UD);
- (d) to its south are open storage of construction materials which are suspected UD and agricultural land; and

- (e) to its west are a vacant site covered by canopy with valid planning permission for temporary place of recreation and sports (martial arts training venue) use, ruin, car park, residential development named The Parkhill, residential dwellings in temporary structures, unused land and vacant land/structures.

10. 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 IV and V** respectively.

11. Public Comments Received During the Statutory Publication Period

On 19.5.2023, the application was published for public inspection. During the statutory public inspection period, four public comments were received from individuals supporting the application on the grounds that the temporary shop and services use has been operating for years and the applied use would not generate adverse environmental impacts on the surrounding areas (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning approval for temporary shop and services for a period of three years at the Site zoned “R(B)1” on the OZP. Although the applied use is not entirely in line with the planning intention of the “R(B)1” zone, there is no known development proposal for the Site. The applied use could serve any such need for shop and services in the area. Whilst the Site falls within an area shown as ‘Road’ under Stage 4 of the YLS Development according to the Revised Recommended Outline Development Plan of YLS, 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. As such, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 12.2 The applied use is small in scale and generally not incompatible with the surrounding environment which comprises predominantly residential structures/developments intermixed with open storage/ storage yards, warehouses, car park/parking of vehicles, ruin, unused land and vacant land/structures (**Plan A-2**).
- 12.3 The application is generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TYST/1029; all the time-limited approval conditions under the previous approval had been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 Concerned government departments, including the 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. There has been

no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 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 possible environmental nuisance on the surrounding areas.

- 12.5 Given that three previous approvals for temporary shop and services uses had been granted to the Site between 2016 and 2020 (**Plan A-1b**) and five similar applications within/straddling the subject “R(B)1” zone have been approved in the past five years (**Plan A-1a**), approval of the current application is generally in line with the Committee’s previous decisions. There was one similar application rejected by the Committee in 2018 mainly on the grounds that the proposal for outdoor motor-vehicle showroom was excessive in scale, and such consideration is generally not applicable to the current application.
- 12.6 The four public comments supporting the application received during the statutory publication period as summarised in paragraph 11 above are noted.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the applied use for a further period of three years.
- 13.2 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 and be renewed from 11.7.2023 to 10.7.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (b) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 11.10.2023;
- (c) the implementation of the accepted sewerage drainage proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 11.4.2024;
- (d) in relation to (c) above, the implemented sewerage facilities shall be maintained at all times during the planning approval period;
- (e) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;

- (f) if any of the above planning condition (a), (d) or (e) 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 (b) or (c) 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.

[Approval condition (a) is the same as that under the permission for application No. A/YL-TYST/1029; conditions (b), (c) and (d) are imposed as per Drainage Services Department's comment; condition (b) has been updated as per the current application; requirements for maintenance of landscape plantings, as well as restrictions on operation hours and vehicle types have been removed as per the departments' latest requirement; and restriction on queuing and reverse movement of vehicles is now stipulated as an advisory clause.]

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "R(B)1" zone which is primarily intended for sub-urban medium-density residential developments in rural areas. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 10.5.2023
Appendix Ia	FI received on 7.6.2023
Appendix Ib	FI received on 14.6.2023
Appendix Ic	FI received on 20.6.2023
Appendix II	Relevant Extracts of TPB PG-No. 34D
Appendix III	Previous and Similar Applications

Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Drawing A-5	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2023**