

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1248

- Applicant** : Ms. CHOI Wai Ching represented by Metro Planning and Development Company Limited
- Site** : Lots 1140 S.D RP, 1141 S.C, 1141 S.D ss.2, 1141 S.D RP, 1142 S.G, 1142 S.H, 1142 S.I, 1142 S.K (Part) and 1152 S.C RP in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen Road, Yuen Long, New Territories
- Site Area** : 1,893 m² (about) (including GL of about 7 m² (about 0.4%))
- Lease** : Tai Po New Grant No. 7133 (for agricultural purposes) and Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Government, Institution or Community” (“G/IC”) (about 58.9%); and
“Residential (Group B)1” (“R(B)1”) (about 41.1%)
[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** : Proposed Temporary Shop and Services and Wholesale of Carpet for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services and wholesale of carpet for a period of three years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP for the “G/IC” and “R(B)” zones, ‘Shop and Services (not elsewhere specified)’ and ‘Shop and Services’ are Column 2 uses respectively which require planning permission from the Town Planning Board (the Board) and ‘Wholesale Trade’ is a Column 1 use in the “G/IC” zone which is always permitted. The covering Notes of the OZP also states that temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Board. The Site is currently occupied by a warehouse without valid planning permission (**Plans A-2 to A-4**).

- 1.2 The Site is abutting Tong Yan San Tsuen Road (**Plans A-2 and A-3**). According to the applicant, the proposed use is for selling of carpet. No medium or heavy goods vehicles, including container tractors/trailers, will be allowed to access the Site. Plans showing the proposed internal layout and as-built drainage facilities submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 The Site has been involved in five previous applications for temporary shop and services and wholesale uses approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2009 and 2021 (details at paragraph 5 below). Compared with the last application (No. A/YL-TYST/1095), the current application is submitted by the same applicant for the same use at the same site with the same development parameters and a similar layout. The major development parameters of the current application are summarised as follows:

Site Area	About 1,893 m ²
Total Floor Area (Non-domestic)	Not more than 1,893 m ²
No. and Height of Structure	1 • for shop and services (carpet shop), wholesale of carpet and toilet (7.5m, 1 storey)
No. of Parking Spaces	4 (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 6:00 p.m. daily

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 14.11.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 17.11.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 5.12.2023* (**Appendix Ib**)
 - (d) Further Information (FI) received on 4.1.2024* (**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 (**Appendix I**). They can be summarised as follows:

- (a) the Site is the subject of five previous planning permissions since 2009. The proposed use is not incompatible with the surrounding environment and similar applications for shop and services have been approved in the vicinity of the Site. The proposed temporary use would not jeopardise the long-term planning intentions of the concerned zones;
- (b) the proposed use would benefit the nearby residents by catering their demand for carpets; and
- (c) the proposed use will be housed within an enclosed structure. There will be no adverse environmental, drainage 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. 31B) by posting site notice and sending the notices to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31B are not applicable.

4. **Background**

The Site is currently not subject to planning enforcement action.

5. **Previous Applications**

5.1 The Site is involved in five approved previous applications (No. A/YL-TYST/445, 622, 767, 940 and 1095) for the same temporary shop and services and wholesale uses as the current application covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

5.2 All the five applications were approved with conditions each for a period of three years by the Committee between 2009 and 2021 mainly on the considerations that the proposals were not incompatible with the surrounding areas; the applications could be tolerated since there was no confirmed development programme for the part of the Site within the “G/IC” zone and no current proposal for residential development on the part of the Site within the “R(B)1” zone; adverse environmental impacts on the surrounding areas were not anticipated; approval of the application 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 three of them (No. A/YL-TYST/445, 940 and 1095)¹ were subsequently revoked in 2012, 2021 and 2023 respectively due to non-compliance with time-limited approval conditions regarding the submission and/or implementation of fire service installations (FSIs) proposals.

6. **Similar Applications**

A total of five similar planning applications (No. A/YL-TYST/1029, 1120, 1127, 1186 and 1216) involving four sites for various temporary shop and services uses within/straddling the subject “R(B)1” zone were approved each for a period of three years by the Committee in the past five years mainly on similar considerations as those mentioned in paragraph 5.2 above. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1a**.

¹ Compared with the current application, two of the previous applications No. A/YL-TYST/445 and 940 were submitted by different applicants.

7. Planning Intentions

- 7.1 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.
- 7.2 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-1a to A-4)

8.1 The Site is:

- (a) abutting Tong Yan San Tsuen Road (**Plans A-2 and A-3**); and
- (b) paved, fenced off and currently occupied by a warehouse without valid planning permission (**Plans A-2 to A-4**).

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

- (a) comprise predominantly open storage/storage yards intermixed with residential developments/structures, a warehouse, parking of lorries, vehicle repair workshop, an electricity substation, ruins, unused land and vacant land/structures;
- (b) there are residential developments/structures in the vicinity of the Site with the nearest one (i.e. The Parkhill) located about 25m to its southeast across Tong Yan San Tsuen Road; and
- (c) the open storage/storage yards, warehouse, parking of lorries and vehicle repair workshop 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 21.11.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual questioning the planned community use of the subject “G/IC” zone and alleging that the Site has been used for brownfield operations without valid planning permission (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services and wholesale of carpet for a period of three years at the Site zoned “G/IC” and “R(B)1” on the OZP. Although the proposed use is not entirely in line with the planning intentions of the “G/IC” and “R(B)” zones, it could serve any such demand for shop and services in the area. There are also no development programme or proposals for GIC uses and residential development on the Site. Whilst the Site falls within an area zoned “Residential – Zone 5” under Stage 4 of the Yuen Long South (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 for a period of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding area comprises predominantly open storage/storage yards intermixed with residential developments/structures and other rural uses (**Plan A-2**). Although there are residential developments/structures nearby, the proposed use is generally not incompatible with the surrounding area.
- 11.3 Concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services (D of FS) and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) have no objection to/no adverse comment on the application from traffic, environmental, fire safety and drainage perspectives. There was no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments. Should the 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 and that the planning permission does not condone any other development/use found on the Site (i.e. warehouse use) but not covered by the application.
- 11.4 The Site is involved in five previous applications for the temporary shop and services and wholesale uses as the current application, which were approved with conditions each for a period of three years by the Committee between 2009 and 2021. However, the planning permissions of three of them were revoked between 2012 and 2023 due to non-compliance with time-limited approval conditions regarding submission and/or implementation of FSIs proposals. The current application is submitted by the same applicant with similar layout and the same development parameters as the last application (No. A/YL-TYST/1095). Nevertheless, the applicant has submitted FSIs proposal to support the current application and D of FS has no objection to the application. As such, sympathetic consideration may be given to the current application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further applications.
- 11.5 Given that there are five previous applications for the same applied use approved at the Site between 2009 and 2021 and five similar applications within/straddling the subject “R(B)1” zone have been approved by the Committee in the past five

years, approval of the current application is generally in line with the Committee's previous decisions.

- 11.6 Regarding the public comment on brownfield operations of the Site, according to the applicant, the previous temporary structure at the Site was demolished in 2019 and the Site would be used for the applied use upon planning approval given. The comments of government departments and planning assessments in paragraphs 11.1 to 11.5 above are also 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 considers that the proposed temporary shop and services and wholesale of carpet could be tolerated for a period of three years.
- 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 12.1.2027. 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 12.4.2024;
- (c) the submission of a revised 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 12.7.2024;
- (d) in relation to (c) above, the implementation of the revised 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 12.10.2024;
- (e) if the above planning condition (a) 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 (b), (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 IV**.

- 12.3 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 intentions of the "G/IC" and "R(B)" zones, which are primarily for the provision of Government, institution or community facilities and for sub-urban medium-density residential developments in rural areas respectively. No strong planning justification has been given in the submission for a departure from the planning intentions, 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 14.11.2023
Appendix Ia	SI received on 17.11.2023
Appendix Ib	FI received on 5.12.2023
Appendix Ic	FI received on 4.1.2024
Appendix II	Previous and 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	As-built Drainage Plan
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-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**