

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1250

- Applicant** : Man Wong Limited
- Site** : Lot 293 RP (Part) in D.D. 127, Hung Shun Road, Hung Shui Kiu, Yuen Long, New Territories
- Site Area** : 65.3 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan No. S/YL-TYST/14
- Zoning** : “Residential (Group B)1” (“R(B)1”)
[Restricted to a maximum plot ratio (PR) of 1, a maximum site coverage (SC) of 40% and a maximum building height (BH) of 4 storeys over single-storey car park (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-1a**). 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 occupied by a vacant structure with scaffolding without valid planning permission and the construction works at the Site has been discontinued (**Plans A-2 to A-4**).
- 1.2 The Site is abutting Hung Shun Road (**Plans A-2 and A-3**). According to the applicant, the proposed use may be for grocery store or convenient store. Loading and unloading (L/UL) activities (about twice per day) will be carried out on Hung Shun Road in front of the Site and only light goods vehicle will be used for delivery of goods. No tree felling and land filling will be carried out. Plans showing the site layout, landscape proposal, floor layout with fire service installations (FSIs) and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.3 The Site is involved in eight previous applications including four applications for temporary shop and services use with or without eating place approved with conditions each for a period of three years by the Rural and New Town Planning

Committee (the Committee) of the Board between 2012 and 2021 respectively (details at paragraph 5 below). Compared with the last application (No. A/YL-TYST/1092), the current application is submitted by the same applicant for the same use at the same site with the same development parameters and similar layout. The major development parameters of the current application are summarised as follows:

Site Area	65.3 m ²
Total Floor Area (Non-domestic)	About 130.6 m ²
No. and Height of Structure	1 • for shop and services (7.6m, 2 storeys)
No. of Parking Space and L/UL Space	Nil
Operation Hours	9:00 a.m. to 9:30 p.m. daily

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

- (a) Application Form with attachments received on 21.12.2023 (**Appendix I**)
- (b) Supplementary Information (SI) received on 27.12.2023 (**Appendix Ia**)
- (c) SI received on 28.12.2023 (**Appendix Ib**)
- (d) Further Information (FI) received on 4.1.2024* (**Appendix Ic**)
- (e) FI received on 17.1.2024* (**Appendix Id**)
- (f) FI received on 25.1.2024* (**Appendix Ie**)

** 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 and FI (**Appendices I and Ie**). They can be summarised as follows:

- (a) the proposed development will provide shop for the nearby residential neighbourhood. The proposed development is compatible with the surrounding area. Adverse traffic impact is not anticipated; and
- (b) the Site was the subject of a previous planning permission (No. A/YL-TYST/1092). The applicant had made diligent efforts to comply with the relevant requirements of concerned departments and the approval conditions on the submission and implementation of drainage and FSIs proposals for the previous application. To take forward the proposal, a short term waiver (STW) application was submitted in 2021 which approval was notified by Lands Department (LandsD) in September 2023. As such, there was insufficient time for carrying out the implementation works due to prolonged processing time of the STW application.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to planning enforcement action. Site inspection on 12.1.2024 and 25.1.2024 revealed that there was a vacant structure on the Site. A reminder letter was posted on the Site on 25.1.2024 to alert the lot owner not to carry out any unauthorized development (UD) on the Site. The Site is kept under monitoring.

5. **Previous Applications**

5.1 The Site is involved in eight previous applications, including four approved applications (No. A/YL-TYST/569, 755, 824 and 1092) for shop and services use with or without eating place and four applications (No. A/YL-TYST/52, 58, 106 and 114) for various public vehicle park covering much larger sites not relevant to the current application. 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 four applications (No. A/YL-TYST/569, 755, 824 and 1092)¹ for shop and services use with or without eating place were approved with conditions each for a period of three years by the Committee between 2012 and 2021 mainly on the considerations that the proposals were not incompatible with the surrounding areas; the proposal 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 all of them were subsequently revoked between 2013 and 2023 due to non-compliance with time-limited approval conditions.

5.3 For the last application No. A/YL-TYST/1092 submitted by the same applicant as the current application, time-limited approval conditions regarding the submission of drainage and FSIs proposals had been complied with. However, according to the applicant, there was insufficient time to implement the accepted drainage and FSIs proposals due to prolonged processing time of the STW application (**Appendix Ie**).

6. **Similar Applications**

There are three similar planning applications (No. A/YL-TYST/1160, 1194 and 1195) for various temporary shop and services uses within/straddling the subject “R(B)1” zone in the past five years. All three applications were approved with conditions each for a period of three years by the Committee mainly on similar considerations as those mentioned in paragraph 5.2 above. However, the planning permission for one of them (No. A/YL-TYST/1160) was subsequently revoked due to non-compliance with approval conditions. 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, three of the previous applications (No. A/YL-TYST/569, 755 and 824) were submitted by a different applicant.

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-1a to A-4)

8.1 The Site is:

- (a) abutting Hung Shun Road (**Plans A-2 and A-3**); and
- (b) paved, fenced off and currently occupied by a vacant structure with scaffolding without valid planning permission and the construction works has been discontinued (**Plans A-2 to A-4**).

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

- (a) comprise predominantly residential developments (including The Woodside, Uptown and The Woodsville to its north, east and south respectively), with two schools, storage yards, car park, eating place, unused land and vacant land;
- (b) there are residential developments in the vicinity of the Site with the nearest one (i.e. Tower 2 of the Woodsville) located about 5m to its immediate south; and
- (c) except for a car park and eating place operating with valid planning permissions (No. A/YL-TYST/1139 and 1189), the storage yards in the vicinity are suspected UDs subject to planning enforcement action.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 below, other 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 provide in **Appendices III and IV** respectively.

9.2 The following government department raised concerns on the application:

Traffic

9.2.1 Comments of the Commissioner of Police (C of P):

The proposed location is at a relatively narrow road with occasional traffic complaints on illegal parking. The proposed temporary shop and services might create additional traffic congestion.

9.3 The following government department conveyed local views on the application:

District Officer's Comments

9.3.1 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office received a coordinated public comment² submitted by the Principal of Ho Dao College, the Chairman of the Incorporated Owners of The Woodville and the Chairman of the Incorporated Owners of The Woodside objecting to the application on the grounds that there is no demand for the proposed shop and services use in the locality, construction works of the proposed development has commenced without valid planning permission and the adverse traffic and landscape impacts and safety issues brought by the said construction works (**Appendix V-1**).

10. Public Comments Received During the Statutory Publication Period

10.1 On 29.12.2023, the application was published for public inspection. During the statutory public inspection period, 65 public comments were received. Of which, 64 raised objections/expressed adverse comments and one supported the application. A full set of public comments will be deposited at the meeting for member's inspection.

Objections/Adverse Comments (64 comments)

10.2 Objections/adverse comments were received from the Principal of Ho Dao College, the Management Office and the Incorporated Owners of The Woodville, the Incorporated Owners of The Woodside (**Appendices V-1 to V-5**) and various individuals (extracted samples at **Appendices V-6 to V-11**). The salient issues of objections and adverse comments are summarised as follows:

Adverse traffic, environmental, landscape and safety impacts

- (a) Hung Shun Road is a cul-de-sac which is prone to traffic congestion with illegal parking observed on a regular basis. Approval of the application will worsen the situation due to the possible increase in vehicular traffic arising from the proposed development. The proposed development will cause adverse traffic impact to the locality, jeopardise road safety and cause inconvenience to road users and pedestrians, especially students and the elderly.
- (b) The proposed development will destroy the peaceful living environment currently enjoyed by the local residents and will also generate noise and air pollutions and brought about environmental hygiene impacts.
- (c) Trees located adjacent to the Site were felled prior to the approval of the current application.

² The public comment conveyed by DO(YL), HAD was also received by the Secretariat of the Board during the statutory public inspection period.

- (d) The proposed structure with a building height of 7.6m would form a dark and narrow pedestrian lane between The Woodsville and the proposed development boundary which induces adverse visual impact and potential safety, security and fire risk issues.

Unauthorized works at the Site

- (e) Constructions works for the proposed development, including the drainage works, were commenced prior to the approval of the current application. Relevant government departments should take appropriate action to stop any unauthorized works and the potential drainage impacts of the proposed development should be taken into consideration.

Others

- (f) Previous applications were revoked due to non-compliance with approval conditions on drainage and fire safety aspects. Further approval should not be given.
- (g) The proposed development is not in line with the planning intention of the current residential zoning. There is no additional demand for shop and services in the vicinity as there are sufficient provision in the locality.
- (h) The FI received on 4.1.2024 failed to provide detailed information regarding the operation and nature of the proposed shop and services use. It is alleged that the subject FI was not published for public inspection.

Supporting Comment (1 comment)

- 10.3 One individual supported the proposed development as it would benefit the residential developments and schools in the vicinity.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of three years 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, it could serve any such demand for shop and services in the area. There are also no known development programme or proposals for the Site and its adjacent undeveloped area. 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 residential development and schools (**Plan A-2**). According to the Notes of the OZP, developments within the “R(B)1” zone are subject to a maximum PR, SC and BH of 1, 40% and 4 storeys over single-storey car park (15m) respectively. The proposed development, with a site area of 65.3m², a floor area of about 130.6m² and a BH of two storeys (7.6m), is generally not incompatible with the surrounding area.
- 11.3 Concerned government departments, including the Commissioner for Transport (C for T), 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. Regarding the issues on illegal parking and traffic congestion arising from the proposed development as advised by C of P, the applicant clarified that loading/unloading activities would only be carried out twice per day on Hung Shun Road and C for T has no adverse comment on the application from traffic perspective. 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 planning enforcement action. 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.

- 11.4 The Site is involved in eight previous applications for various temporary uses. The last four applications (No. A/YL-TYST/569, 755, 824 and 1092) for the temporary shop and services with or without eating places were approved with conditions each for a period of three years by the Committee between 2012 and 2021. However, the planning permissions of all of them were revoked between 2012 and 2023 due to non-compliance with time-limited approval conditions regarding submission and/or implementation of landscape, drainage and FSIs proposals. The current application is submitted by the same applicant as the last application (No. A/YL-TYST/1092)¹ with similar layout and the same development parameters. According to the applicant, there was insufficient time to implement the last application (No. A/YL-TYST/1092), including the accepted drainage and FSIs proposals, due to prolonged processing time of the STW application which was submitted in 2021 and the approval of STW was notified by LandsD in September 2023 (**Appendix Ie**). Nevertheless, the applicant has submitted drainage and FSIs proposals to support the current application, which were accepted by CE/MN, DSD and D of FS respectively. As such, sympathetic consideration may be given to the current application. The applicant will be advised that should it 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 four previous applications for temporary shop and services uses approved at the Site between 2012 and 2021 and three 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 There were 65 public comments received during the statutory public inspection period as summarised in paragraph 10 above and a comment conveyed by DO(YL), HAD as mentioned in paragraph 9.2.1 above. Regarding the suspected unauthorized works at the Site, the construction works has been discontinued and the Site is currently covered by a vacant structure with scaffolding. A reminder letter was posted on the Site on 25.1.2024 to alert the lot owner not to carry out any UD on the Site. According to the applicant, the existing scaffolding on the Site was intended to stabilise the unfinished building structure (**Appendix Ie**). Four trees are proposed to be planted at the Site (**Drawing A-2**). Relevant approval conditions are recommended in paragraph 12.2 below to address the public concerns and the applicant will be reminded that any use or development which is permitted by the Board must also conform to any other relevant legislation, the conditions of the

Government lease concerned, and any other Government requirements, as may be applicable. All the FIs received regarding the current application have been exhibited for public inspection in accordance with the relevant guidelines and the established practice. The justifications provided by the applicant in paragraph 2, 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 comments mentioned in paragraphs 9.2.1 and 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 16.2.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:30 p.m. and 9:30 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) the implementation of the accepted 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 16.11.2024;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 16.11.2024;
- (e) if any of the above planning condition (a) or (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
- (f) if any of the above planning condition (b) 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 proposed use is not in line with the planning intentions of the "R(B)" zone, which is primarily for sub-urban medium-density residential developments in rural

areas. 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 21.12.2023
Appendix Ia	SI received on 27.12.2023
Appendix Ib	SI received on 28.12.2023
Appendix Ic	FI received on 4.1.2024
Appendix Id	FI received on 17.1.2024
Appendix Ie	FI received on 25.1.2024
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Floor Plan with FSIs
Drawing A-4	Drainage 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-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2024**