

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

APPLICATION NO. A/YL-TYST/1254

<u>Applicant</u>	:	Mr. LEE Kin Hoi represented by Metro Planning and Development Company Limited
<u>Site</u>	:	Lot 2734 (Part) in D.D. 124, Tan Kwai Tsuen, Yuen Long, New Territories
<u>Site Area</u>	:	830 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
<u>Zoning</u>	:	“Residential (Group D)” (“R(D)”) <i>[Restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]</i>
<u>Application</u>	:	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 “R(D)” zone, ‘Shop and Services’ other than on the ground floor of a New Territories Exempted House is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently paved, fenced off, largely vacant and covered by a valid planning permission for the applied use under application No. A/YL-TYST/1063 until 30.4.2024 (**Plans A-1 to A-4**).
- 1.2 The Site is accessible from Tan Kwai Tsuen Road to its northeast via a local track (**Drawing A-1, Plans A-2 and A-3**). According to the applicant, the applied use is for a real estate agency mainly to serve the needs of the local residents by offering sales and rental services for land and flat. No medium or heavy goods vehicles, including container tractors/trailers, will be allowed to enter/park at the Site. Plans showing the vehicular access leading to the Site, site layout with fire service

installations (FSIs) and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is involved in four previous applications (No. A/YL-TYST/713, 819, 887 and 1063) for the same temporary shop and services use approved with conditions for a period of three years by the Rural and New Town Planning Committee (the Committee) of the Board between 2015 and 2021 (details at paragraph 6 below).
- 1.4 Compared with the last application (No. A/YL-TYST/1063), the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters. The major development parameters of the current application are summarised as follows:

Site Area	About 830 m ²
Total Floor Area (Non-domestic)	Not more than 84 m ²
No. and Height of Structures	2 • for real estate agency and toilet (3m, 1 storey)
No. of Parking Spaces	2 (for private cars) (5m x 2.5m each)
No. of Loading/ Unloading Space	Nil
Operation Hours	9:00 a.m. to 7:00 p.m daily

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 22.1.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 7.2.2024* (**Appendix Ia**)
 - (c) FI received on 1.3.2024* (**Appendix Ib**)
- * *accepted and exempted from publication requirements*

2. Justifications from the Applicant

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

- (a) the Site is the subject of four previous planning permissions for the same applied use as the current application since 2015. All the approval conditions under the last planning application (No. A/YL-TYST/1063) had been complied with;
- (b) the applied use would benefit the residents in the vicinity by meeting their demand for real estate service. The development is temporary in nature and would not jeopardise the long-term planning intention of the “R(D)” zone;
- (c) the applied use is not incompatible with the surrounding environment. Similar application for shop and services has been approved by the Board in the vicinity of the Site; and
- (d) there will be minimal traffic, environmental, noise and drainage impacts arising from the applied 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. 31B) by posting site notice and sending the notice to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

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

The Site is involved in four previous applications (No. A/YL-TYST/713, 819, 887 and 1063) for the same use as the current application covering different extents of the Site. All four applications were approved with conditions for a period of three years by the Committee between 2015 and 2021 mainly on the considerations that the proposals would not frustrate the long-term planning intention of the “R(D)” zone; the developments were not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, three of the planning permissions (No. A/YL-TYST/713, 819 and 887) were subsequently revoked between 2016 and 2020 due to non-compliance with approval conditions. All the time-limited approval conditions under the last approved application No. A/YL-TYST/1063 have been complied with and the planning permission is valid until 30.4.2024. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.

7. Similar Application

There is no similar application within the subject “R(D)” zone in the past five years.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise,

low-density residential developments subject to planning permission from the Board.

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

9.1 The Site is:

- (a) accessible from Tan Kwai Tsuen Road to its northeast via a local track (**Drawing A-1, Plans A-2 and A-3**); and
- (b) paved, fenced off and largely vacant (**Plans A-2 and A-4**).

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

- (a) comprise predominantly open storage/storage yards and warehouses with scattered residential structures, workshops, parking of container vehicles/heavy duty vehicles, a plant nursery and unused land;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 20m to the northeast of the Site. Village houses of Wo Ping San Tsuen are located to the further southwest of the Site across a nullah in an area zoned “Village Type Development” on the approved Lam Tei and Yick Yuen OZP No. S/TM-LTYT/12; and
- (c) the open storage/storage yards, warehouses, workshops and parking of container vehicles/heavy duty vehicles in the vicinity are suspected unauthorized developments subject to planning enforcement action.

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 Comment Received During the Statutory Publication Period

On 30.1.2024, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual raising concern that the Board should question whether the approval conditions of the last application (No. A/YL-TYST/1063) had been complied with (**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(D)” on the OZP. Although the proposed development is not entirely in line with the planning intention of the “R(D)” zone, it could serve any such need for shop and services in the area. Whilst the Site falls within the development boundary of the proposed public

housing developments at Ping Shan South, Yuen Long, the Project Team Leader/Housing, Civil Engineering and Development Department has no adverse comment on the renewal application for a period of three years. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.

- 12.2 The surrounding area comprises predominantly open storage/storage yards and warehouses with scattered residential structures (**Plan A-2**). The applied use is generally not incompatible with the surrounding uses.
- 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/1063; 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 or no adverse comment on the application from traffic, environmental, fire safety and drainage perspectives. 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 relevant environmental mitigation measures in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise potential environmental nuisance on the surrounding areas.
- 12.5 Given that four previous approval for the same use have been granted to the Site between 2015 and 2021, approval of the current application is in line with the Committee’s previous decisions.
- 12.6 There is one public comment raising concern on the application received during the statutory public inspection period as summarised in paragraph 11 above. For the last application No. A/YL-TYST/1063, all the time-limited approval conditions have been complied with. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are also relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment 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 1.5.2024 to 30.4.2027. 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 commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.8.2024;
- (c) the existing fire service installations implemented on the site shall be maintained in efficient working order at all times during the planning approval period;
- (d) 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
- (e) if the above planning condition (b) 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/1063; condition (b) is imposed as per Drainage Services Department's comments; condition (c) has been updated as per the current application; requirements for maintenance of boundary fencing, 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(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas into permanent buildings and for low-rise, low-density residential development. No strong planning justification has been given in the submission for 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 22.1.2024
Appendix Ia	FI received on 7.2.2024
Appendix Ib	FI received on 1.3.2024
Appendix II	Relevant Extracts of TPB PG-No. 34D
Appendix III	Previous Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan with FSIs
Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2024**