

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1306

- Applicant** : Mr. LAW Chun Chung represented by Goldrich Planners and Surveyors Limited
- Site** : Lot 1375 RP (Part) in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long
- Site Area** : 138 m² (about) (including GL of about 12 m² (8.7%))
- 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** : Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services for a period of five years at the application site (the Site) zoned “R(B)1” on the OZP (**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 paved, fenced off and occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site with the ingress/egress at the western part is accessible from Tong Yan San Tsuen Road (**Plans A-2 and A-3**). According to the applicant, the applied use is for a temporary shop selling hardware groceries and construction materials (including fasteners, pipes cement, concrete, tools, etc.). There is a two-storey structure (about 5m in height) with a total floor area of about 193m² for retail shop, ancillary storage area and resting area uses. No public announcement systems, whistle blowing or portable loudspeaker will be used and no workshop activity (including cutting of metal) will be carried out at the Site. Loading and unloading (L/UL) activities (about 15 minutes once per day) will be carried out at a L/UL space at Tong Yan San Tsuen Road to the south of the Site and only light goods vehicle will be used for delivery of goods (**Appendix Ia**). Plans showing the site

layout, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site was involved in 14 previous applications including 12 applications for various temporary shop and services uses approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2003 and 2021 (details at paragraph 5 below). Compared with the last approved application for temporary shop and services use for a period of three years (No. A/YL-TYST/1119), the current application is submitted by the same applicant for the same use for a period of five years at the same site with the same layout and development parameters. The major development parameters of the current application are summarised as follows:

Site Area	About 138 m ²
Total Floor Area (Non-domestic)	About 193 m ²
No. and Height of Structure	1 • for retail shop, ancillary storage area and resting area (5m, 2 storeys)
No. of Parking Space and L/UL Space	Nil
Operation Hours	8:30 a.m. to 6:30 p.m. daily

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

- (a) Application Form with attachments received on 3.2.2025 (Appendix I)
- (b) Further Information (FI) received on 11.3.2025 (Appendix Ia)
[accepted and 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 Ia**). They can be summarised as follows:

- (a) the Site is the subject of previous planning permissions for the same use since 2003. The applicant failed to comply with the approval condition on the implementation of FSIs proposal for the last approved application No. A/YL-TYST/1119 due to failure in applying for an independent water meter and electricity meter within the required time limit. The fire safety equipment has been installed in accordance with the accepted FSIs proposal and the applicant is applying for the required water meter and electricity meter;
- (b) the applied use will benefit the residents in the vicinity by meeting their demand for hardware groceries;
- (c) the development is temporary in nature and would not jeopardise the long-term planning intention of the “R(B)1” zone;

- (d) similar applications for shop and services have been approved within other “R(B)” zones of the OZP in the past five years. The applied use is not incompatible with the surrounding area;
- (e) the applicant pledges to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“Code of Practice”); and
- (f) no vegetation clearance and tree felling will be carried out at the Site and the applicant will maintain the existing drainage facilities at the Site in good conditions. No adverse traffic, visual, landscape, drainage, fire safety, environmental and noise impacts arising from the applied use are envisaged.

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 obtaining consent of the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements as set out in TPB PG-No. 31B are not applicable.

4. Background

The shop and services use at the Site is a suspected unauthorized development (UD) which would be subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site was involved in 14 previous applications, including 13 applications for various temporary shop and services uses. Details of the previous application are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

Approved Applications

- 5.2 12 applications (No. A/YL-TYST/197, 311, 371, 449, 496, 558, 621, 653, 700, 772, 929 and 1119) for various temporary shop and services uses were approved with conditions each for a period of one to three years by the Committee between 2003 and 2021 mainly on the considerations that the proposals were generally not incompatible with the surrounding areas; approval of the application on a temporary basis 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 four of them, including the last two applications which were submitted by the same applicant of the current application, were subsequently revoked between 2006 and 2023 due to non-compliance with approval conditions¹.

¹ The last two planning permissions for applications No. A/YL-TYST/929 and 1119 were revoked in 2021 and 2023 respectively due to non-compliance with approval condition regarding the implementation of FSIs proposal.

Rejected Applications

- 5.3 Application No. A/YL-TYST/289 for proposed temporary plant nursery, retail shop and domestic use for a period of three years was rejected by the Committee in 2005 mainly on the grounds that the proposed development was not compatible with the surrounding residential uses; and the development would generate adverse environmental and drainage impacts on the surrounding areas.
- 5.4 Application No. A/YL-TYST/226 was for proposed temporary storage of building and landscaping materials use and its considerations are not relevant to the current application which involves a different use.

6. Similar Application

There is no similar planning application for temporary shop and services use within the subject “R(B)1” zone in the past five years.

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

7.1 The Site is:

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

7.2 The surrounding areas comprise predominantly low-rise residential developments (namely Jasper Court and Curio Court to the immediate east and further northeast of the Site) intermixed with two storage yards and a vehicle repair workshop within the subject “R(B)1” zone, as well as scattered residential structures, open storage/storage yards, a warehouse, oil factory, restaurant, unused land and vacant land/structures located to the west of the Site in the adjoining “Industrial” zone. Some of the open storage/storage yards and vehicle repair workshop in the vicinity are suspected UDs subject to planning enforcement action (**Plans A-2 and A-3**).

8. Planning Intention

The planning intention of the “R(B)” zone is primarily 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. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices III and IV** respectively.

9.2 The following government department objects to the application:

Land Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) he objects to the application;
- (b) the Site comprises GL and Old Schedule Agricultural Lot 1375 RP in D.D. 121 held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) Lot 1375 RP in D.D. 121 and GL are covered by Short Term Waiver (STW) No. 3294 for Temporary Retail Shop for Hardware Groceries and Short Term Tenancy (STT) No. 2589 for Retail Shop for Hardware Groceries respectively;
- (d) the following irregularities not covered by the current application have been detected by his office:

Unauthorised structure(s) within Lot 1375 RP in D.D. 121 not covered by the planning application

- (i) there is/are unauthorized structure(s) within the said private lot not covered by the current planning application. The lot owner(s) should immediately rectify or apply for regularisation on the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice; and

Unlawful occupation of GL not covered by the planning application

- (ii) the GL adjoining the said private lot has been illegally occupied with unauthorized structure(s) without permission. The GL being unlawfully occupied is not included in the current planning application. Any occupation of GL without Government's prior approval is an offence under Cap. 28. His office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;
- (e) unless and until the unauthorized structure(s) and the unlawful occupation of GL are duly rectified by the STT and STW holders/the lot owner(s)/applicant or entirely included in the current planning application, his office objects to the application which must be brought to the attention of the Board when it considers the application; and
- (f) the applicant should note his advisory comments at **Appendix IV**.

10. Public Comment Received During the Statutory Publication Period

On 11.2.2025, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of five 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)” zone, it could serve any such demand for shop and services in the area. There is also no known development programme or proposal for residential development at the Site for the time being. Approval of the application on a temporary basis for a period of five years would not jeopardise the long-term planning intention of the “R(B)1” zone.
- 11.2 The surrounding area comprises predominantly low-rise residential structures/developments intermixed with open storage/storage yards, a vehicle repair workshop, warehouse, oil factory, restaurant, unused land and vacant land/structures (**Plans A-2 and A-3**). The applied use is generally not incompatible with the surrounding land uses.
- 11.3 Concerned government departments consulted, including the Commissioner for Transport, Director of Environmental Protection (DEP), Director of Fire Services (D of FS) and Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) have no objection to or no adverse comment on the application from traffic, environmental, fire safety and drainage aspects respectively. 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 relevant environmental mitigation measures in the latest “Code of Practice” to minimise potential environmental nuisance on the surrounding areas.
- 11.4 As for DLO/YL, LandsD’s concerns on the unauthorized structure(s) and unlawful occupation of GL outside the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.5 The Site was involved in 14 previous applications including 12 of them for various temporary shop and services uses approved by the Committee between 2003 and 2021. However, the planning permissions for the last two applications (No. A/YL-TYST/929 and 1119) were revoked in 2021 and 2023 respectively due to non-compliance with time-limited approval condition regarding implementation of FSIs proposal. The current application is submitted by the same applicant as the last two previous applications with the same layout and development parameters. The applicant has provided justification for non-compliance with approval condition of the last previous application and has also submitted a FSIs proposal in support of the current application (**Drawing A-3**), which was considered acceptable by the D of FS. 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 may not be given to any further applications.

- 11.6 12 previous applications for various temporary shop and services uses have been granted to the Site from 2003 to 2021. Although there was a previous application (No. A/YL-TYST/289) involving retail use rejected by the Committee in 2005 as detailed in paragraph 5.3 above, for the current application, concerned government departments consulted including DEP and CE/MN, DSD have no objection/no adverse comment. Approval of the current application is generally in line with the previous decisions of the Committee.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 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 28.3.2030. 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 28.6.2025;
- (c) 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 28.12.2025;
- (d) 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
- (e) 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.

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 intention 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 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 3.2.2025
Appendix Ia	FI received on 11.3.2025
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Drainage Proposal
Drawing A-3	FSIs Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2025**