

RNTPC Paper No. A/YL-PS/607
For Consideration by
the Rural and New Town
Planning Committee
on 10.7.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/607

- Applicant** : Yat Tin Property Management Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 25 (Part), 26 RP, 27 RP, 28 RP (Part), 29 RP (Part) and 30 RP in D.D. 121, Ping Shan, Yuen Long, New Territories
- Site Area** : About 4,550 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Government, Institution or Community” (“G/IC”) (about 99%);

“Residential (Group B) 1” (“R(B)1”) (about 0.4%)¹; and
[Restricted to maximum plot ratio of 1, maximum site coverage of 40% and maximum building height of 5 storeys (15m) including car park]

“Village Type Development” (“V”) (about 0.6%)
[Restricted to a maximum building height of 3 storeys (8.23 m)]
- Application** : Proposed Temporary Shop for Retail and Wholesale of Food Products for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop for retail and wholesale of food products for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site mainly falls within an area zoned “G/IC” (99%) with minor portions within “R(B)1” and “V” zones on the approved Ping Shan Outline Zoning Plan No. S/YL-PS/18 (the OZP). According to the Notes for the “G/IC” zone on the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board) while ‘Wholesale Trade’ is a Column 1 use which is always permitted. The Site is currently being used for the applied use.
- 1.2 The Site is involved in five previous applications (No. A/DPA/YL-PS/49, A/YL-

¹ The minor encroachment on the “R(B)1” and “V” zones would be considered as minor boundary adjustment as permitted under covering Notes of the OZP.

PS/52, 53, 269 and 560) for temporary parking of vehicles and temporary shop for retail and wholesale of construction materials (**Plan A-1b**). The last application No. A/YL-PS/560 for temporary shop for retail and wholesale of construction materials for a period of 3 years was approved by the Rural and New Town Planning Committee (the Committee) on 15.6.2018 valid until 15.6.2021. Details of the previous applications are summarised at paragraph 5 below and at **Appendix II**.

1.3 A comparison of the major development parameters of the current application and the last approved application is as follow:

Major Development Parameters	Last Approved Application (No. A/YL-PS/560) (a)	Current Application (No. A/YL-PS/607) (b)	Difference (b) – (a)
Development/ Use	Temporary shop for retail and wholesale of construction materials	Temporary shop for retail and wholesale of food products	Change in selling substances
Site Area	4,550m ²		No change
Maximum Floor Area	2,910m ²	2,880m ²	-30m ²
No. of Structures	4 (shop, water tank, pump room and toilet)	3 (shop, toilet, electricity meter room)	-1
Maximum Height of Structures	3.5m to 8.5m (1 storey)	3m to 8.5m (1 storey)	-0.5m
No. of Private Car Parking Spaces	Nil	5 (5m x 2.5m)	+5
No. of Loading/ Unloading Bay for Medium Goods Vehicles	1 (11m x 3.5m)		No change
Operation Hours	9:00 a.m. to 7:00 p.m. daily (including public holidays)		No change

1.4 Compared with the last application A/YL-PS/560, the current application is submitted by the same applicant for a similar use at the same site (but change in substance for wholesale) with similar development parameters and layout but increase in parking spaces.

1.5 The location plan, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan are at **Drawings A1** to **A4** respectively.

1.6 According to the applicant, the Site is accessible via an existing track connecting Ping Kwai Road. Only medium goods vehicle not exceeding 24 tonnes will be allowed to enter the Site for the convenience of staff and clients. No vehicle repair, dismantling, car beauty, car washing or other workshop activity will be

carried out at the Site.

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

- (a) Application Form received on 13.5.2020 with supplementary information (Appendix I)
- (b) Further Information (FI) received on 23.6.2020 (accepted and exempted from publication and recounting requirements) (Appendix Ia)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) There is a strong demand for food products in the area. The proposed location allows wholesale trade so that the wholesale of food products such as edible oil and canned food is possible.
- (b) The proposed development is temporary in nature. It would not jeopardise the long term planning intention of the “G/IC”, “V” and “R(B)1” zones. The Site is not owned by the Government so that the acquisition of land for “G/IC” use takes time. As such, the temporary conversion of the Site for another use would be a prudent use of scarce land resource. The Board has approved similar shop and wholesale use in “G/IC” zone within the same OZP.
- (c) The application is subject to a previous planning application No. A/YL-PS/560 approved for similar use. In view of that the Site will be occupied by a new tenant for wholesale and retail of food products, a fresh planning application is submitted for the consideration of the Board.
- (d) The applicant has provided trees, drainage channel and fire services installations (FSIs) at the Site.

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. 31A) by posting notice of the application outside the Site and sending registered mail to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in five previous applications (No. A/DPA/YL-PS/49, A/YL-PS/52, 53, 269 and 560) for temporary vehicle park and temporary shop for retail and wholesale of construction materials. Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Application No. A/DPA/YL-PS/49 for temporary public car park and No. A/YL-PS/53 for public lorry and car park were approved with conditions by the Committee on 5.5.1995 for 2 years and 14.5.1999 for 12 months respectively mainly on consideration that the development would not jeopardise the long-term planning intention, compatible with the surrounding developments and no adverse comment from relevant government departments. The permissions lapsed on 6.5.1997 and 15.5.2000 respectively.
- 5.3 Application No. A/YL-PS/52 for temporary container trailer, tractor and car park for a period of 12 months was rejected by the Committee on 14.5.1999 mainly on grounds that the development was incompatible with surrounding village settlements, access to the site was unsatisfactory, the use would pose threats to the service of Light Rail Transit, no information to demonstrate that the use would have no adverse environmental and visual impacts and the approval would set an undesirable precedent.
- 5.4 Application No. A/YL-PS/269 for temporary public vehicle park for private cars, lorries and coaches was approved by the Committee on 27.7.2007 for a period of 12 months instead of 3 years applied on similar considerations as stated in paragraph 5.2 above. However, the planning permission was revoked on 27.1.2008 as the applicant failed to comply with the implementation of landscape proposal within the specific time limit.
- 5.5 Application No. A/YL-PS/560 for temporary shop for retail and wholesale of construction materials was approved by the Committee on 15.6.2018 for a period of 3 years valid until 15.6.2021 mainly on considerations that the development would not jeopardise the long-term planning intention of the “G/IC” zone, not incompatible with the surrounding uses and no objection or adverse comment from relevant government departments. However, the approval conditions on the submission and implementation of fire service installations (FSIs) proposal and the implementation of landscape proposal have yet to be complied with.
- 5.6 Compared with the last approved application No. A/YL-PS/560, the current application is submitted by the same applicant for a similar use at the same site with similar development parameters and layout but increase in parking spaces.

6. Similar Application

There is no similar application within the same “G/IC” zone.

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

- 7.1 The Site is:

- (a) occupied by temporary structure and currently used for the applied use; and
- (b) accessible via an existing track connecting Ping Kwai Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north are parking of vehicles and coaches and open storage of container which are suspected unauthorised development (UD);
- (b) to the immediate east of the Site is a temporary vehicle park for private cars, light goods vehicles and 19-seater coaches with valid planning permission under application No. A/YL-PS/604;
- (c) to the immediate south are temporary car testing centre with ancillary office with valid planning permission under application No. A/YL-PS/587 and parking of coach which is suspected UD. To the further south are shrubland and a residential development (La Mansion); and
- (d) to the west are a local track, Light Rail and nullah.

8. Planning Intention

The “G/IC” zone is intended 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.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) Lot No. 26 RP in D.D. 121 is covered by Short Term Waiver (STW) No. 5120 to permit structures erected thereon for the purpose of “Temporary Shop for Retail and Wholesale of Construction Materials”. Lots No. 25, 28 RP and 29 RP in D.D. 121 are covered by STW No. 5121 to permit structures erected thereon for the purpose of “Temporary Public Vehicle Park (Private Car and Light Goods Vehicle) and Temporary Shop for

Retail and Wholesale of Construction Materials”.

- (c) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) without STW will need to apply to his office to permit the structures to be erected or regularise any irregularities on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under TD’s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

9.1.3 Comments of the Chief Highways Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Ping Kwai Road.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one about 24m

to its south) (**Plan A-2**) and environmental nuisance is expected.

- (b) Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”) issued by DEP.
- (c) There was no environmental complaint pertaining to the Site received in the past 3 years.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) He did not have adverse comment on the last approved application No. A/YL-PS/560 submitted by the same applicant for the use of temporary shop for retail and wholesale of construction materials. However, the implementation of the landscape proposal was not yet acceptable according to his site inspection on 6.5.2020.
- (b) With reference to the aerial photo of 2019 and the photos taken in the said site inspection, the Site is gravel paved with existing trees observed along the boundary within the Site. The Site is situated in an area of miscellaneous urban fringe landscape character. Significant change to the character arising from the application is not anticipated.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) According to the applicant’s submission, the existing drainage facilities which was implemented under an approved application No. A/YL-PS/560 will be maintained for the subject development. He has no objection in principle to the proposed development from a drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (b) The applicant is reminded that the required condition record should include coloured photos showing the current location of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch

pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) However, the applicant should be reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on the suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of BD should

be obtained, otherwise they are UBW. An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with BO.

- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of B(P)R at the building plan submission stage.

District Officer's Comments

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

His office has not received any feedback from locals.

9.2 The following Government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO);
- (c) Director of Leisure and Cultural Services (DLCS);
- (d) Commissioner of Police (C of P);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Director of Electrical and Mechanical Services (DEMS); and
- (g) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

10. Public Comments Received During Statutory Publication Period

On 22.5.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is for temporary shop for retail and wholesale of food products for a period of 3 years. The Site falls largely within an area zoned "G/IC" (about 99%). The "G/IC" zone is intended 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. The "G/IC" zone 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. The proposed development, including shop for retail of food products, is not in line with the planning intention of the "G/IC" zone. However, there is not yet any programme/known intention to implement

the zoned use on the Site. Temporary approval of the application for a period of 3 years would not jeopardise the long-term planning intention of the “G/IC” zone.

- 11.2 The proposed development is not entirely incompatible with the surrounding uses including vehicle parks, temporary car testing centre and residential use (**Plan A-2**).
- 11.3 Relevant Government departments, including AC for T/NT, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to or adverse comment on the application. The proposed use will unlikely create significant adverse traffic, drainage and landscape impacts to the surrounding areas. DEP does not support the application as there are sensitive uses in vicinity (with the nearest residential dwelling about 24m to the south of the Site)(**Plan A-2**), and environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. To address the concerns on potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “COP” in order to minimise the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has approved a previous application for the similar use (shop for retail and wholesale of construction materials) at the Site (**Plan A-1b**). Approval of the current application is in line with the previous decision of the Committee.
- 11.5 There is no public comment received on the application during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department considers that the proposed temporary shop for retail and wholesale of food products could be tolerated for a period of 3 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 3 years until 10.7.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;

- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing boundary fencing of the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities 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 **10.10.2020**;
- (f) in relation to (e) above, the existing drainage facilities shall be maintained at all times during the planning approval period;
- (g) the submission of 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 **10.1.2021**;
- (h) in relation to (g) above, the implementation of 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 **10.4.2021**;
- (i) the implementation of the accepted landscape and tree preservation proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **10.1.2021**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (f) 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
- (k) if any of the above planning conditions (e), (g), (h) or (i) 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 attached at **Appendix III**.

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

the development is not in line with the planning intention of the "G/IC" zone which is intended 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. 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 received on 13.5.2020 with supplementary information
Appendix Ia	Further Information (FI) received on 23.6.2020
Appendix II	Previous Applications covering the Site
Appendix III	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
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
JULY 2020**