

Similar Applications within the Subject “R(C)” Zone

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/YL-TYST/577	Proposed Temporary Eating Place and Shop (Grocery Store) for a Period of 3 Years	16.3.2012 [revoked on 16.3.2013]	(2), (3), (4), (5), (6), (7), (8)
2.	A/YL-TYST/620	Proposed Temporary Eating Place and Shop (Grocery Store) for a Period of 3 Years	23.11.2012 [revoked on 23.12.2014]	(2), (3), (4), (5), (6), (7), (8)
3.	A/YL-TYST/714	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	6.2.2015 [revoked on 6.11.2016]	(2), (3), (4), (5), (6), (7), (8), (11)
4.	A/YL-TYST/737	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	3.7.2015	(2), (3), (4), (5), (6), (7), (8), (11), (13)
5.	A/YL-TYST/738	Proposed Temporary Eating Place and Shop (Grocery Store) for a Period of 3 Years	3.7.2015 [revoked on 3.4.2016]	(2), (3), (4), (5), (6), (7), (8), (11), (13)
6.	A/YL-TYST/760	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	23.10.2015 [revoked on 23.7.2016]	(2), (3), (4), (5), (6), (7), (8), (11), (13)
7.	A/YL-TYST/774	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	8.1.2016 [revoked on 8.7.2016]	(2), (4), (5), (6), (7), (8), (11), (13), (14)
8.	A/YL-TYST/805	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	14.9.2016 [revoked on 14.3.2017]	(2), (4), (5), (6), (7), (8), (11), (13), (14)
9.	A/YL-TYST/821*	Proposed Temporary Plant Nursery and Shop and Services (Retail Shop for Plants) for a Period of 3 Years	13.1.2016 [revoked on 26.6.2017]	(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (15)
10.	A/YL-TYST/873	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	18.5.2018	(3), (4), (5), (6), (7), (8), (11), (13), (14)
11.	A/YL-TYST/894	Renewal of Planning Approval for Temporary "Shop (Grocery Store)" for a Period of 3 Years	1.6.2018	(2), (4), (5), (6), (7), (8), (11), (13), (14)

*Straddling the adjacent “Undetermined” zone

Approval Condition(s):

- (1) Submission of vehicular run-in/out proposal and provision of vehicular run-in.

- (2) Submission and/or implementation of (accepted) landscape and/or tree preservation proposal or maintenance of existing trees and landscape plantings.
- (3) Submission of (revised) drainage proposal and implementation/provision of drainage facilities/proposal.
- (4) Submission and implementation/provision of emergency vehicular access, water supply for firefighting and/or fire service installations proposal.
- (5) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period.
- (6) Reinstatement of the site to an amenity area upon expiry of planning permission.
- (7) No night-time operation (between specific hours).
- (8) No light, medium or heavy goods vehicles, including container tractor/trailer, is allowed to park/store on or enter/exit the site.
- (9) No workshop activities are allowed on the site.
- (10) Preservation of existing bamboos clumps.
- (11) No vehicle is allowed to queue back to or reverse onto/from public road.
- (12) Provision of boundary fencing on the site.
- (13) The implemented/existing drainage facilities shall be maintained.
- (14) Submission of records of the existing drainage facilities on the site.
- (15) No site formation and construction works are allowed within the breeding season of ardeids.

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TYST/914	Proposed Temporary Eating Place and Shop and Services (Grocery Store) for a Period of 3 Years	21.9.2018	(1), (2)

Rejection Reason(s):

- (1) The applicant fails to demonstrate that the proposed development would not cause adverse drainage impacts on the surrounding areas.
- (2) Planning permission for the same proposed use granted under a previous application was revoked due to non-compliance with approval conditions. Approval of the application would set an undesirable precedent for other similar applications, thus nullifying statutory planning control mechanism.

Advisory clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the application site (the Site);
- (b) the planning permission is given to the development/uses under application. It does not condone any other development/use (i.e. warehouse/storage uses) which currently exists on the Site but not covered by the application. The applicant shall be requested to take immediate action to discontinue such development/use not covered by the permission;
- (c) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (d) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. The Site is accessible to Kung Um Road via Government land (GL) and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site. The lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by her department acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be required by her department;
- (e) to note the comments of the Commissioner for Transport that the applicant is reminded that the land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority. The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly. The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains. His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road;
- (g) to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by the Environment Protection Department to minimize any potential environmental nuisances;
- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (PlanD) that the applicant is reminded to conduct routine vegetation maintenance works, such as irrigating the trees and removing weeds regularly throughout the period. Fence and/or kerb or bollard should be constructed with a minimum distance of 1m around the planting areas to guard against damage to the trees and shrubs. The applicant should make reference to “Technical Note on the Submission and Implementation of Landscape Proposals for Compliance with Conditions for Approved Applications for Open Storage and Port Back-up

Uses under Section 16 of the Town Planning Ordinance". The applicant shall make reference to the following information/guideline published by the Greening, Landscape and Tree Management Section, Development Bureau for tree maintenance: 私人物業樹木護理資料 Information About Tree Maintenance For Private Properties (https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html) and 護養樹木的簡易圖解 Pictorial Guide for Tree Maintenance (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf);

- (i) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that he has the following comments on the submitted drainage proposal (Annex 1 of **Appendix I** and **Drawing A-4** of this RNTPC Paper): The invert levels of the proposed catchpits should be shown on the drainage plan for reference. The existing drainage facilities, to which the stormwater of the development from the Site would discharge, are not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owner prior to commencement of the proposed works. In the case that it is a local village drain, DO/YL should be consulted. The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development. The cross section of the proposed hoarding/peripheral wall should be shown on the proposed drainage plan. The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc. The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works;
- (j) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should be advised on the following points: 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. In addition, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (k) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. For UBW erected on leased land, enforcement action may be taken by the 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 the BO. Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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. 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.