

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1000

- Applicant** : Mr. TSOI Tak Lee represented by Goldrich Planners & Surveyors Limited
- Site** : Lot 1162 RP (Part) in D.D. 119 and Adjoining Government Land (GL), Kung Um Road, Yuen Long, New Territories
- Site Area** : 3,220 m² (about) (including about 163 m² of GL (about 5.1%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Draft Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/13 currently in force
Approved TYST OZP No. S/YL-TYST/12 at the time of submission
- Zoning** : “Undetermined” (“U”)
[No change to the “U” zone on the current OZP]
- Application** : Temporary Warehouse for Storage of Construction Materials and Household Materials with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary warehouse for storage of construction materials and household materials with ancillary office for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP for “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves two previous applications (No. A/YL-TYST/528 and 595) for temporary warehouse for storage of construction materials and household materials with/without ancillary office (**Plan A-1**). The last application (No. A/YL-TYST/595) for the same use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 20.7.2012. However, the planning permission was revoked on 20.1.2014 due to non-compliance with time-limited approval conditions on implementation of drainage proposal as well as submission and implementation of fire service installations (FSIs) proposal. Compared with the

last application, the current application is submitted by the same applicant for the same use on the same site with largely the same site layout and development parameters.

- 1.3 According to the applicant, the proposal is for storage of construction materials (such as plastic pipes, woods, glass and tiles) and household materials (such as shampoo, alcohol handrub, tissue papers and detergent). No workshop activities will be carried out at the Site and no heavy goods vehicles exceeding 24 tonnes will be allowed to enter/park at the Site. Plans showing the site layout, landscape proposal, drainage proposal and FSIs proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/595 (a)	Current Application No. A/YL-TYST/1000 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Construction Materials and Household Materials with Ancillary Office for a Period of 3 Years		---
Site Area	About 3,220 m ² (including GL of about 157 m ²)	About 3,220 m ² (including GL of about 163 m ²)	---
Total Floor Area (Non-domestic)	2,930.5 m ²	2,904 m ²	-26.5 m ² (-1%)
No. and Height of Structures	9 <ul style="list-style-type: none"> • one open shed with shelter for storage (5m, 1 storey) • two for site office with/without shelter (2.5-5, 1-2 storey(s)) • two for toilet (2-2.5m, 1 storey) • one for kitchen (2.5m, 1 storey) • one for water tank (1.7m, 1 storey) • one for storeroom with shelter (5m, 1 storey) • one for guard post (2.5m, 1 storey) 		---
No. of Parking Space	Nil		---
No. of Loading /Unloading Space	3 (for medium goods vehicle) (11m x 3.5m)		---
Operation Hours	9:00 a.m. to 6:00 p.m., with no operation on Sundays and Public Holidays		---

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annexes and plans received on **(Appendix I)** 18.12.2019

- (b) Further Information (FI) received on 20.5.2020 providing responses to departmental comments and a FSIs proposal **(Appendix Ia)**
- (c) FI received on 29.7.2020 responding to departmental comments **(Appendix Ib)**
- (d) FI received on 24.9.2020 responding to departmental comments **(Appendix Ic)**
- (e) FI received on 10.11.2020 clarifying the stored items **(Appendix Id)**
[(b) to (e) exempted from publication and recounting requirements]

1.6 On 20.3.2020, 24.6.2020 and 18.9.2020, the Committee agreed to defer a decision on the application each for a period of two months, as requested by the applicant. On 24.9.2020, FI **(Appendix Ic)** was received and the application is submitted to the Committee for consideration at this meeting.

2. Justifications from the Applicant

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

- (a) The Site was the subject of a previous planning permission (No. A/YL-TYST/595).
- (b) The proposal was in line with the then Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), as the Site falls within Category 1 areas.
- (c) A number of open storage and port back-up uses have been approved by the Board in the subject “U” zone and the planning circumstances remain unchanged. Therefore, the development is compatible with the surrounding environment.
- (d) There will be minimal traffic, visual, noise and drainage impacts arising from the proposal.

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 site notice and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. **Background**

The Site is currently not subject to planning enforcement action.

5. **Previous Applications**

- 5.1 The Site involves two previous applications (No. A/YL-TYST/528 and 595) for temporary warehouse for storage of construction materials and household materials with/without ancillary office both submitted by the same applicant as the current application. Details of the previous applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.
- 5.2 The previous applications were approved by the Committee each for a period of 3 years on 15.4.2011 and 20.7.2012 respectively, mainly on the considerations that the proposals were generally not incompatible with the surrounding areas; the proposals were not in conflict with the planning intention of the “U” zone; approval of the application on a temporary basis would not frustrate the long-term development of the area; and departmental concerns could be addressed by imposing approval conditions. However, the planning permissions under both applications were revoked on 15.4.2013 and 20.1.2014 respectively due to non-compliance with time-limited approval conditions on implementation of drainage proposal as well as submission and implementation of FSIs proposal.
- 5.3 Compared with the last application (No. A/YL-TYST/595), the current application is submitted by the same applicant for the same use on the same site with largely the same site layout and development parameters.

6. **Similar Applications**

- 6.1 A total of 78 similar applications for various temporary warehouse with or without open storage and/or ancillary uses within/straddling the “U” zone had been considered by the Committee since 2015. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Out of the 78 similar applications, 75 were approved mainly on similar considerations that the developments were not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for 22 of them were revoked due to non-compliance with approval conditions.
- 6.3 The remaining three applications (No. A/YL-TYST/922, 926 and 943) were rejected by the Committee between 2018 and 2019, mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.
- 6.4 For Members’ information, application No. A/YL-TYST/1019 for temporary warehouse for storage of construction materials and exhibition materials for a period of 3 years, application No. A/YL-TYST/1046 for proposed temporary warehouse for storage of exhibition materials, furniture, construction materials,

vehicle parts and electronic parts for a period of 3 years, application No. A/YL-TYST/1053 for temporary warehouse for storage of construction materials, carpets and porcelains with ancillary office for a period of 3 years and application No. A/YL-TYST/1054 for renewal of planning approval for temporary warehouse for storage of documents and office supplies for a period of 3 years within the “U” zone on the OZP will also be considered at this meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) abutting Kung Um Road to its east (**Drawing A-1, Plans A-2 and A-3**);
- (b) paved and fenced off; and
- (c) currently occupied by the applied use without valid planning permission (**Plan A-4**).

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

- (a) comprise predominately warehouses and open storage/storage yards intermixed with scattered residential structures, a carpark, a vehicle repair workshop, parking of trailers and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 10m to its northeast;
- (c) to its east is a nullah flanked by Kung Um Road and Pak Sha Shan Road as well as an area zoned “Other Specified Uses” annotated “Rural Use” on the draft Tai Tong OZP No. S/YL-TT/17; and
- (d) except for one open storage yard and two warehouses operating with valid planning permissions (No. A/YL-TYST/867, 936 and 966) in the vicinity of the Site, the other warehouses, open storage/storage yards, carpark, vehicle repair workshop and parking of trailers in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

8.1 The planning intention of the “U” zone is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development.

8.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the YLS Study), this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application and public comment, where relevant, 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 GL and an Old Schedule Agricultural Lot 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.
- (b) Within the Site, the GL and Lot 1162 RP in D.D. 119 are currently covered by Short Term Tenancy (STT) No. 2642 and Short Term Waiver (STW) No. 3642 respectively to permit structures erected thereon for the purpose of “Warehouse for Storage of Construction Materials and Household Materials with Ancillary Office”.
- (c) Should planning approval be given to the subject planning application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. 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 her department acting in the capacity of 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 her department.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The run-in/out should be constructed to Highways Department’s (HyD’s) standard.
- (b) The development should not encroach into any footpath/public road.
- (c) 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.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface 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 Kung Um 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 located about 10m to the northeast of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (c) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

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

- (a) He has no objection in principle to the development from the public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal (**Drawing A-3**). Nevertheless, the applicant should be reminded of the detailed comments at **Appendix V**.
- (c) Should the Board consider the application acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal and the submitted FSIs proposal (**Drawing A-4**) is considered acceptable.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Long-Term Development

9.1.8 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the YLS Study. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area partly zoned “Local Open Space” (“LO”) and “Education” (“E”) and partly shown as ‘Road’.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

9.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the subject application.
- (b) However, the southeastern part of the Site falls within the boundary of YLS development - Stage 2, while the northwestern part of the Site falls within the boundary of YLS development - Stage 3.
- (c) The land resumption and clearance programme of the YLS development – Stage 2 is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation for YLS development – Stage 2 is tentatively targeted to commence in 2024, while the implementation programme of the YLS development – Stage 3 is being formulated. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out

any substantial works on the southeastern part of the Site in view of the planned YLS development – Stage 2.

District Officer's Comments

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

Her office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Director of Electrical and Mechanical Services (DEMS);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 17.1.2020, 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 questioning the long-term development plans for the area and suggested that the warehouse should be relocated into high-rise industrial buildings (**Appendix IV**).

11. Planning Considerations and Assessments

11.1 The application is for temporary warehouse for storage of construction materials and household materials with ancillary office for a period of 3 years at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage use but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site falls within an area partly zoned “LO” and “E” and partly shown as ‘Road’ on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the temporary use for 3 years. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.

11.2 The surrounding areas comprise predominantly warehouses and open storage/storage yards (**Plan A-2**). While there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.

11.3 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located about 10m to the northeast of the Site) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended

in paragraph 12.2 below to minimise any potential environmental nuisances or to address the technical requirements of other 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 enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.

- 11.4 The Site involves two previous applications (No. A/YL-TYST/528 and 595) submitted by the same applicant as the current application for similar/the same warehouse use covering the Site. The applications were approved with conditions by the Committee on 15.4.2011 and 20.7.2012 respectively, each for a period of 3 years. Subsequently, the planning permissions were revoked on 15.4.2013 and 20.1.2014 respectively due to non-compliance with time-limited approval conditions requiring implementation of drainage proposal as well as submission and implementation of FSIs proposal. The site layout of the current application is similar to those of the previous applications and the Site is currently occupied by the applied use. Nevertheless, the applicant has submitted drainage and FSIs proposals for the current application (**Drawings A-3 and A-4**) which were accepted by CE/MN, DSD and D of FS respectively. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. 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 would unlikely be given to any further application.
- 11.5 Given that two previous approvals for warehouse use have been granted to the Site and 75 similar applications have been approved in the “U” zone since 2015, approval of the current application is generally in line with the Committee’s previous decisions. There were three similar applications in this part of the “U” zone rejected mainly on the grounds, amongst others, that approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system. While the two planning permissions covering the Site were revoked due to non-compliance with approval conditions, based on the considerations in paragraph 11.4 above, sympathetic consideration may be given to the current application.
- 11.6 There was one public comment received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of construction materials and household materials with ancillary office 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 20.11.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site 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 trees on the Site shall be maintained at all times during the planning approval period;
- (e) the implementation of the accepted drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.5.2021;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) the implementation of the accepted 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 20.5.2021;
- (h) 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
- (i) if any of the above planning conditions (e) or (g) 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 V**.

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

the applicant fails to demonstrate that the development would not generate adverse environmental impact on the surrounding areas.

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 annexes and plans received on 18.12.2019
Appendix Ia	FI received on 20.5.2020
Appendix Ib	FI received on 29.7.2020
Appendix Ic	FI received on 24.9.2020
Appendix Id	FI received on 10.11.2020
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within/straddling the “U” zone on the OZP since 2015
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Drainage Proposal
Drawing A-4	FSIs Proposal
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**