

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1004

<u>Applicant</u>	: Hang Sing Limited represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 1258 (Part) and 1267 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 1,410 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/12
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Proposed Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of construction materials for a period of 3 years (**Plan A-1a**). According to the 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 vacant with some temporary structures (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves five previous applications (No. A/YL-TYST/450, 580, 719, 797 and 943) for various temporary warehouse uses (**Plan A-1b**). The last application for the same use as the current application was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 1.2.2019, on the ground that approval of application with repeated non-compliance with approval conditions would set an undesirable precedent for other similar applications. Compared with the last application (No. A/YL-TYST/943), the current application is submitted by a different applicant for the same warehouse use with largely the same site layout and development parameters on the same site.
- 1.3 According to the applicant, the proposed warehouse is for storage of construction materials including drain pipes, tiles, marble and metal pipes. No storage of sand

and excavated material, repairing, dismantling, spraying, cleaning, other workshop activities and handling of hazardous electrical/electronic appliances/components, including cathode-ray tubes (CRT), CRT computer monitors/television sets and CRT equipment, will be carried out at the Site. The applicant also undertakes that all existing trees/drainage facilities within the Site will be preserved/maintained at his own expense. Furthermore, no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation proposal, as-built drainage facilities and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.

1.4 The major development parameters of the previously rejected application and the current application are summarised as follows:

Major Development Parameters	Previously Rejected Application No. A/YL-TYST/943 (a)	Current Application No. A/YL-TYST/1004 (b)	Difference (b)-(a)
Applied Use	Proposed Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years		---
Site Area	About 1,410 m ²		---
Total Floor Area (Non-domestic)	945 m ²	947 m ²	+2 m ² (+0.2%)
No. and Height of Structures	3 <ul style="list-style-type: none"> • one for warehouse (11m, 1 storey) • one for water tank (5m, 1 storey) • one for pump room (5m, 1 storey) 	4 <ul style="list-style-type: none"> • one for warehouse (11m, 1 storey) • one for water tank (5m, 1 storey) • one for pump room (5m, 1 storey) • one for electricity metre room (3m, 1 storey) 	+1 (+33.3%)
No. of Parking Space	Nil		---
No. of Loading/Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m)		---
Operation Hours	9:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays	Shorter Operation Hours

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

- (a) Application Form with Supplementary Planning (**Appendix I**) Statement received on 4.2.2020

- (c) Further Information (FI) dated 12.3.2020 providing (**Appendix Ia**) clarifications on the proposed operation, a swept path analysis and a sightline diagram
[accepted and exempted from publication and recounting requirements]

1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 3.4.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in Section 3 of the Supplementary Planning Statement attached to the Application Form and the FI at **Appendices I** and **Ia** respectively. They can be summarised as follows:

- (a) For planning permission No. A/YL-TYST/797, the previous applicant had complied with all planning conditions except the implementation of FSIs proposal. The direct line for the FSIs to be provided by the Hong Kong Telecom (HKT) had not been installed in time to comply with the FSI related condition, even though the previous applicant had applied for it for a long time. Nevertheless, the current applicant is confident in completing the FSIs proposal as HKT has accepted that the fax line at the Site could be used for direct line and that part of the FSIs, i.e. pump room and water tank, have been installed.
- (b) According to the then Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), the Site falls within Category 1 areas and is considered suitable for open storage and port back-up uses.
- (c) The proposed development is in line with the planning intention of the “U” zone. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site. Therefore, the development is compatible with the surrounding environment. Besides, there is a shortage of land for open storage purpose in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental, visual and drainage impacts arising from the proposal. The proposed development would not generate queuing of traffic outside the Site, and adequate space for loading/unloading activities and manoeuvring of vehicles will be provided. The applicant undertakes to follow the environmental mitigation measures in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice), where applicable.

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 a notice of the application outside the Site 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.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves five previous applications (No. A/YL-TYST/450, 580 719, 797 and 943) for various temporary warehouse uses covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-TYST/450 for temporary warehouse for storage of metal ware, machinery and spare parts, application No. A/YL-TYST/580 for temporary warehouse for storage of exhibition materials and construction materials, application No. A/YL-TYST/719 for temporary warehouse for storage of construction material, exhibition material and furniture and application No. A/YL-TYST/797 for the same use as the current application were approved with conditions each for a period of 3 years by the Committee between 2009 and 2016, mainly on the considerations that the development was generally not incompatible with the surrounding areas; approval condition 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, all four applications were revoked between 2011 and 2018. For application No. A/YL-TYST/797, most of the approval conditions have been complied with except for implementation of FSIs proposal.
- 5.3 The last application (No. A/YL-TYST/943) for the same use as the current application was rejected by the Committee in 2019 on the ground that approval of application with repeated non-compliance with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control system.
- 5.4 Compared with the last application, the current application is submitted by a different applicant for the same warehouse use with largely the same site layout and development parameters on the same site.

6. Similar Applications

- 6.1 A total of 114 similar applications for various temporary warehouse/storage with or without open storage and/or ancillary site office uses in this part of the "U" zone had been considered by the Committee since 17.10.2008. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Out of the 114 similar applications, 111 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 39 of them were revoked due to non-compliance with approval conditions.

- 6.3 The remaining three applications (No. A/YL-TYST/478, 922 and 926) were either rejected by the Board on review or by the Committee in 2010 and 2018 respectively, 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.

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

7.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east (**Drawing A-1** and **Plans A-2** and **A-3**);
- (b) paved and fenced off; and
- (c) currently vacant with some temporary structures.

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) comprise predominately warehouses and open storage/storage yards intermixed with vehicle repair workshops, scattered residential structures and unused land;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 60m to its east (**Plan A-2**); and
- (c) except for two warehouses in the vicinity operating with valid planning permissions (No. A/YL-TYST/941 and 928), the other warehouses, open storage/storage yards and vehicle repair workshops in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

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. The area is therefore zoned “U” pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

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 the prior approval of the Government.
- (b) Within the Site, Lots 1258 and 1267 (Portion) in D.D. 119 are currently covered by Short Term Waivers (STWs) No. 4291 and 3584 to permit structures erected thereon for the purposes of “Warehouse for Storage of Construction Material, Exhibition Material and Furniture” and “Warehouse for Storage of Exhibition Materials and Construction Materials” respectively.
- (c) Should planning approval be given to the application, the STW holder(s) will need to apply to her office for modification of the STW 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 rent or fee, as may be imposed by her department.

Traffic

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

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (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, Highways Department (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) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (b) 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 to minimise any potential environmental nuisances.

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 proposed development.
- (b) Based on the drainage proposal enclosed in the application (**Drawing A-4**), apparently the applicant would maintain the same drainage facilities as those maintained under previous planning application No. A/YL-TYST/797.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities implemented under application No. A/YL-TYST/797 and submission of records of the existing drainage facilities on the Site 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 subject to FSIs being provided to his satisfaction.
- (b) The submitted FSIs proposal (**Drawing A-5**) is considered acceptable to his department.
- (c) The applicant is advised that the installation/maintenance/modification/repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/modification/repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.

- (d) 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.

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 (BA) 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's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.
 - (iii) 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 the BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) 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.
 - (v) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

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 “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site falls within an area zoned as “Residential – Zone 2 (Subsidised Sale Flats with Commercial)” (“R2(SSF)c”) and “Amenity” (“A”), and areas 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 Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) However, based on the preliminary project boundary of the proposed YLS Development, the Site falls within the boundary of the proposed YLS Development – Stage 3. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and its detailed implementation programme with phasing and packaging of works for YLS Development is being formulated.

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 Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (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 18.2.2020, 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 proposed temporary warehouse for storage of construction materials for a period of 3 years at a site zoned “U” on the OZP. The proposal is not in conflict with the planning intention of the “U” zone which is generally intended 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 zoned “R2(SSF)c” and “A”, and areas shown as ‘Road’ on the RODP of YLS promulgated on 8.8.2017, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the proposed 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**). The development is generally not incompatible with the surrounding uses in the subject “U” zone.
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD and DEP. No adverse traffic, drainage and environmental impacts arising from the proposal are envisaged. 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 Given that 4 previous approvals for warehouse uses have been granted to the Site and 111 similar applications have been approved in this part of the “U” zone since 2008, approval of the current application is in line with the Committee’s previous decisions. There was one previous application and three similar applications rejected 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. Despite the previous applications were revoked due to non-compliance with approval conditions, the current application is submitted by a different applicant, and the Site is currently vacant with the previous operation having ceased before the current application was made. The applicant of the current application has submitted drainage and FSIs proposals and undertaken to implement the proposals. The relevant departments have no in-principle objection to the drainage and FSIs proposals submitted. As such, the current application could be considered afresh.
- 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 assessments made in paragraph 11, the Planning Department considers that the proposed temporary warehouse for storage of construction materials 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 26.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 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 repairing, dismantling, spraying, cleaning, other workshop activities and handling of hazardous electronic appliances/components, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained at all times, as proposed by the applicant, during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a condition record of the existing drainage facilities on 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 26.8.2020;
- (i) 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 26.11.2020;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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 (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 at **Appendix IV**.

- 12.3 There is no strong reason to recommend rejection of the application.

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 Supplementary Planning Statement received on 4.2.2020
Appendix Ia	FI dated 12.3.2020
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications in this Part of the “U” zone on the OZP since 17.10.2008
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Tree Preservation Proposal
Drawing A-4	As-built Drainage Plan
Drawing A-5	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plan A-4a and A-4b Site Photos

**PLANNING DEPARTMENT
MAY 2020**