

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1025

- Applicant** : Mr. HO Chak Ming
- Site** : Lot 1231 S.B ss.1 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 118 m² (about)
- 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]
- Application** : Temporary Warehouse for Storage of Vehicle Parts 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 vehicle parts for a period of 3 years (**Plan A-1a**). According to the covering Notes of the OZP for the “U” zone, all uses or development except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site involves 2 previous applications (No. A/YL-TYST/832 and 881) for temporary vehicle repair workshop use (**Plan A-1b**). The last application (No. A/YL-TYST/881) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 16.3.2018. However, the planning permission was subsequently revoked on 16.12.2018 due to non-compliance with approval conditions. Compared with the last application, the current application was submitted by the same applicant for a different use on a smaller site with different site layout and development parameters.
- 1.3 According to the applicant, the warehouse is for storage of vehicle parts. All vehicle parts will be delivered to the Site by the applicant on foot and no vehicle will

enter/park at the Site. Also, no vehicle repairing activities will be carried out within the Site. Plans showing the access leading to the Site and site layout submitted by the applicant are at **Drawings A-1** and **A-2** 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/881 (a)	Current Application No. A/YL-TYST/1025 (b)	Difference (b)-(a)
Applied Use	Temporary Vehicle Repair Workshop for a Period of 3 Years	Temporary Warehouse for Storage of Vehicle Parts for a Period of 3 Years	Change in Use
Site Area	158 m ² (about) (including about 15 m ² of government land)	118 m ² (about)	-40 m ² (-25.3%)
Total Floor Area (non-domestic)	208 m ² (about)	115 m ² (about)	-93 m ² (-44.7%)
No. and Height of Structure	1 • one for storage, site office and shelter (5.8m, 2 storeys)	1 • one for storage and shelter (5.8m, 2 storeys)	---
No. of Parking Space	Nil		---
No. of Loading/ Unloading Space	Nil		---
Operation Hours	10:00 a.m. to 4:00 p.m., with no operation on Sundays and Public Holidays	11:00 a.m. to 4:00 p.m., with no operation on Saturdays, 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 plans received on 13.5.2020 **(Appendix I)**
- (b) Supplementary Information received on 20.5.2020 providing clarification on the proposed operation and replacement pages of the Application Form **(Appendix Ia)**
- (c) Further Information (FI) received on 2.9.2020 responding to departmental comments **(Appendix Ib)**
- (d) FI received on 4.9.2020 responding to departmental comments **(Appendix Ic)**

- (e) FI received on 8.10.2020 responding to departmental (**Appendix Id**) comments
[(c) to (e) exempted from publication and recounting requirements]

1.6 On 10.7.2020, the Committee agreed to defer a decision on the application for a period of two months, as requested by the applicant. On 2.9.2020, FI (**Appendix Ib**) 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 detailed in the Application Form, Supplementary Information and FI (**Appendices I to Id**). They can be summarised as follows:

- (a) The warehouse operation will be carried out within the existing structure at the Site and no large vehicle parts will be stored.
- (b) There is no staff member other than the applicant himself. He will access the Site by green minibus and walk. There will be no more than one entry to the Site per day.

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 obtaining the consent from the “current land owner”. 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 2 previous applications (No. A/YL-TYST/832 and 881) for temporary vehicle repair workshop use covering a larger site submitted by the same applicant as the current application. Details of the applications are summarised in **Appendix II** and the boundary of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-TYST/832 for temporary vehicle repair workshop for a period of 3 years was rejected by the Committee on 28.7.2017. The applicant could not demonstrate that sufficient space within the Site could be provided for manoeuvring of vehicles and that no reverse movement of vehicles through the ingress/egress would occur. As such, the application was rejected for the reason

that the applicant failed to demonstrate that the applied development would not cause adverse traffic impact on the surrounding areas.

- 5.3 The last application (No. A/YL-TYST/881) for temporary vehicle repair workshop was approved with conditions for a period of 3 years by the Committee on 16.3.2018 mainly on the considerations that the development was not in conflict with the planning intention of the “U” zone; not incompatible with the surrounding uses; the concerns of relevant government departments could be addressed by imposing approval conditions; and similar applications had been approved in the subject “U” zone. However, the planning permission was subsequently revoked on 16.12.2018 due to non-compliance with approval conditions on provision of boundary fence, and submission and/or implementation of drainage, FSIs and ingress/egress proposals.
- 5.4 Compared with the last application, the current application was submitted by the same applicant for a different use on a smaller site with different site layout and development parameters.

6. Similar Applications

- 6.1 A total of 77 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-1a**.
- 6.2 Out of the 77 similar applications, 74 were approved mainly on similar considerations that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for 21 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.

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

- 7.1 The Site is:
- (a) accessible via a local track leading from 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.
- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominately warehouses and open storage/storage yards with scattered residential structures, vehicle repair workshops, car services, parking of vehicles, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 20m to its northwest; and
- (c) except for one open storage yard and two warehouses operating with valid planning permissions (No. A/YL-TYST/898, 972 and 1022), the other warehouses, open storage/storage yards, vehicle repair workshops, car services and parking of vehicles 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 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) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office for permitting the structures to be erected or regularise any irregularities on 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 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) He has no further comment on the FI (**Appendix Id**) submitted by the applicant.
- (b) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (c) The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (d) 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 3 years.
- (b) Should the application be approved, the applicant should be advised to follow 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 public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the

planning point of view, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development 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 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. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, 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 zoned “Residential – Zone 2 (with Commercial)” (“R2c”).
- (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 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 the 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 Electrical and Mechanical Services (DEMS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the 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, one public comment was received from an individual mainly raising concern that the applicant would not comply with the approval conditions imposed to the planning approval as the previous application (A/YL-TYST/881) was revoked due to non-compliance with approval conditions (**Appendix IV**).

11. Planning Considerations and Assessments

11.1 The application is for temporary warehouse for storage of vehicle parts 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 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 “R2c” on the Revised RODP of YLS, CE/CID, PlanD does not raise objection and PM(W), CEDD has no objection to the temporary use of the Site 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**). Although there are residential structures in the vicinity, 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. Adverse traffic, drainage and environmental impacts arising from the proposal are not envisaged. Besides, there has been no substantiated 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 Given that 74 similar applications for warehouse use within/straddling the “U” zone have been approved since 2015, approval of the current application is generally in line with the Committee’s previous decisions. There was one previous application (No. A/YL-TYST/832) for temporary vehicle repair workshop rejected by the Committee on 28.7.2017 mainly on the ground of potential adverse traffic impact. However, it was for a different use and C for T has no adverse comment on the current application. There were also three similar applications in the “U” zone rejected mainly on the grounds, amongst others, that approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system. Although the Site is subject to one revoked previous application (No. A/YL-TYST/881) for temporary vehicle repair workshop, such considerations are generally not applicable to the current application as the current proposal is for a different use and it could be considered afresh.
- 11.5 There was one public comment raising concerns on the application received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 as summarised in paragraph 10, the Planning Department considers that the temporary warehouse for storage of vehicle parts 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 23.10.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 4:00 p.m. and 11:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle repairing activities, as proposed by the applicant, will be carried out on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to enter/park at the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) the submission of a 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 23.4.2021;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.7.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a 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 23.4.2021;
- (i) in relation to (h) above, the implementation of the 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 23.7.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d) 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 (e), (f), (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 V**.

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 plans received on 13.5.2020
Appendix Ia	Supplementary Information received on 20.5.2020
Appendix Ib	FI received on 2.9.2020
Appendix Ic	FI received on 4.9.2020
Appendix Id	FI received on 8.10.2020
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 Access Plan
Drawing A-2	Site Layout Plan
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-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2020**