

Previous Applications Covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (TPB/RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-TYST/3	Temporary open storage of marble for a period of 12 months	21.3.1997 approved for 6 months (on review)	(1), (3)
2	A/YL-TYST/44	Temporary open storage of construction machinery and materials for a period of 12 months	25.9.1998	(1), (2), (3)

Approval Conditions

- (1) Submission and implementation of landscape proposal.
- (2) Provision of drainage facilities.
- (3) Reinstatement of the site upon the expiry of the planning permission.

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use/Development</u>	<u>Date of Consideration (TPB/RNTPC)</u>	<u>Rejection Reasons</u>
1	A/YL-TYST/119	Temporary open storage of construction machinery and materials for a period of 3 years	9.3.2001 (on review)	(1), (2), (5), (6)
2	A/YL-TYST/144	Temporary open storage of construction materials for a period of 3 years	17.8.2001	(1), (2), (3)
3	A/YL-TYST/262	Temporary recycling facility for plastic waste for a period of 3 years	3.12.2004	(2), (3), (4)
4	A/YL-TYST/1047	Proposed Temporary Shop and Services for a Period of 3 Years	9.10.2020	(1), (7)

Rejection Reasons:

- (1) The development is not in line with the planning intention of the “R(D)” zone which is to improve and upgrade the existing domestic accommodation within the zoned area and to cater for very low-rise, low-density residential development.
- (2) The current environmental and traffic conditions associated with the access track to the application site were already deteriorating. Approving the application would result in a further degradation of the environmental and traffic conditions of the area.
- (3) There is no information in the submission to demonstrate that the development would not generate adverse landscape/drainage/environmental impacts on the surrounding areas.
- (4) The proposed development was considered not compatible with the surrounding rural uses which were mainly active/fallow agricultural land, residential structures, a plant nursery, a peach tree planting field and a pigsty.
- (5) The development is not compatible with the nearby residential structures.
- (6) On the approved Tong Yan San Tsuen Outline Zoning Plan No. S/YL-TYST/5, an area between Shan Ha Tsuen and Kung Um Road is zoned “Undetermined” (“U”) and intended for open storage use. There is no information in the submission to demonstrate why suitable sites within the “U” zone cannot be made available for the development.
- (7) The scale of the proposed shop is considered excessive and the applicant also fails to justify the height of the proposed structure.

Similar Applications straddling/within the subject “R(D)” Zone on the OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s) /Development(s)</u>	<u>Site Area / Proposed Total Floor Area (non-domestic) / Plot Ratio / Max. Height of Proposed Structures</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-TYST /820*	Proposed Temporary Shop and Services (Retail Shop for Metal and Home Appliance) for a Period of 3 Years	892m ² / 150m ² / 0.17 / 6m	23.12.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2	A/YL-TYST /998#	Proposed Temporary Shop and Services for a Period of 3 Years	730m ² / 174m ² / 0.24 / 4.5m	17.1.2020	(1), (2), (3), (6), (7), (8), (10)

* Straddling the adjacent “Residential (Group B)1” zone

Straddling the adjacent “Village Type Development” zone

Approval Condition(s):

- (1) Restrictions on night-time operation allowed at the site.
- (2) Restrictions on medium or heavy goods vehicles allowed at the site.
- (3) Restrictions on queuing back or reverse movement of vehicles onto/from public road.
- (4) Maintenance of existing trees and/or landscape plantings at the site.
- (5) Provision of boundary fence at the site.
- (6) Submission, implementation and/or maintenance of drainage facilities and/or submission of a record of the existing drainage facilities.
- (7) Submission, implementation and/or maintenance of fire service installations proposal and/or provision of fire extinguisher(s).
- (8) Revocation of planning approval for non-compliance with conditions by a specified date/at any time during the approval period.
- (9) Reinstatement of the site upon expiry of planning permission.
- (10) Restrictions on certain types of workshop activities allowed at the site.

Rejected Application

	<u>Application No.</u>	<u>Proposed Use/ Development</u>	<u>Site Area / Proposed Total Floor Area (non-domestic) / Plot Ratio / Max. Height of Proposed Structures</u>	<u>Date of Consideration (TPB)</u>	<u>Rejection Reasons</u>
1	A/YL-TYST/ 546	Temporary Shop and Services (Temporary Traffic Engineering Highway Sub-station and Sale Office of Traffic Engineering Equipment with Ancillary Display Area) for a Period of 3 Years	692m ² / 249m ² / 0.36 / 5.2m	28.9.2012 (on review)	(1), (2), (3), (4)

Rejection Reasons

- (1) The proposed development, which was more akin to an open storage yard rather than a retail shop serving the surrounding residential neighbourhood, was not in line with the planning intention of the “R(D)” zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis.
- (2) The application did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E) in that no previous planning approval had been granted for the use on the site and there were adverse departmental comments on and local objections to the application. The development was also not compatible with the current and planned residential use in the surrounding areas.
- (3) The applicant failed to demonstrate that the proposed development would not generate adverse environmental and drainage impacts on the surrounding areas.
- (4) As no approval for similar uses had been granted in the subject “R(D)” zone since 2002, approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

Advisory clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises Government land (GL) and 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. No permission is given for occupation of GL (about 28 m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed. The lot owner(s) will need to apply to her office to permit the structures to be erected or to 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. Furthermore, you shall exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. 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;
- (c) to note the comments of the Commissioner for Transport that the land status of the access road/path/track leading to the Site from Long Hon Road should be checked with the lands authority. The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly. Sufficient space should be provided within the Site for manoeuvring of vehicles. No parking of vehicles on public road is allowed;
- (d) 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 the nearby public roads/drains. His department shall not be responsible for the maintenance of any access connecting the Site and Tong Yan San Tsuen Interchange;
- (e) to note the comments of the Director of Environmental Protection that relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department should be followed to minimise any potential environmental nuisances on the surrounding areas;
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the drainage facilities on site should be implemented in accordance with the agreed drainage proposal. You shall rectify the drainage system if they are found to be inadequate or ineffective during operation. Furthermore, you shall be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system. The proposed development would neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas. DLO/YL, LandsD should be consulted and consent from the relevant lot owners should be sought for any works to be carried out outside your lot boundary before commencement of the drainage works;
- (g) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required.

Relevant layout plans incorporated with the proposed FSIs should be submitted to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, the location of where the proposed FSIs to be installed should also be clearly marked on the layout plans. 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;

- (h) 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 Building Authority (BA), they are unauthorised building works (UBW) under the 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 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. Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) 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. 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. 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. Any temporary shelters or converted containers for office, storage, washroom or other uses considered as temporary buildings are subject to the control of Part VII of the B(P)R. Detailed checking under the BO will be carried out at building plan submission stage; and
- (i) to note the comments of the Project Manager (West), Civil Engineering and Development Department that based on the preliminary project boundary of the proposed Yuen Long South (YLS) Development, the Site falls within the boundary of the proposed YLS Development – Stage 4. 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 – Stage 4 is being formulated.