

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/923**

<b><u>Applicant</u></b>	: Yat Cheong (China) Development Ltd. represented by Top Bright Consultants Ltd.
<b><u>Site</u></b>	: Lots 1547 and 1548 in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	: 1,891m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11 (at the time of submission)  Approved Tong Yan San Tsuen OZP No. S/YL-TYST/12 (currently in force)
<b><u>Zoning</u></b>	: “Undetermined” (“U”) (No change to the “U” zone)
<b><u>Application</u></b>	: Temporary Warehouse for Storage of Furniture 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 furniture for a period of 3 years. The Site falls within an area zoned “Undetermined” (“U”) on the OZP. 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 occupied for the applied use without valid planning permission (**Plans A-2, A-4a to A-4b**).
- 1.2 The Site was involved in eight previous applications (No. A/YL-TYST/173, 216, 319, 354, 391, 534, 605 and 749) all submitted by the same applicant. The first four applications for temporary open storage/vehicle repair workshops were rejected by the Rural and New Town Planning Committee (the Committee) of the Board or the Board on review on 23.8.2002, 16.1.2004, 8.9.2006 and 22.6.2007 respectively; while the latter four applications for temporary warehouse uses were approved by the Committee for a period of 3 years on 6.6.2008, 3.6.2011, 24.8.2012 and 21.8.2015 respectively (**Plan A-1b**). Details of the previous

applications are at paragraph 5 and **Appendix II**. Compared with the last application, the current application is submitted by the same applicant for the same warehouse use with similar site layout on a slightly larger site with similar development parameters.

1.3 The major development parameters of the previously approved application and the current application are summarized as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TYST/749 (a)</b>	<b>Current Application No. A/YL-TYST/923 (b)</b>	<b>Difference (b)-(a)</b>
Applied Use	Temporary Warehouse for Storage of Furniture for a Period of 3 Years		---
Site Area	1,891 m <sup>2</sup>		---
Total Floor Area (Non-domestic)	1,220 m <sup>2</sup>	1,264 m <sup>2</sup>	+44 m <sup>2</sup> (+3.6%)
No. and Height of Structure	2 • for warehouse (6.3 m, 1 storey) and porch (4.5 m, 1 storey)	2 • for warehouse (7.5 m, 1 storey) and canopy (7.5 m, 1 storey)	+ 3 m (+66.7%)
Loading/Unloading Space	2 (for medium goods vehicle)		---
Operation Hours	9:00 a.m. to 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays		---

1.4 The Site is accessible from Kung Um Road to its east via a local track (**Drawing A-1 and Plans A-2 and A-3**). The applicant undertakes that the furniture will be stored within the fully enclosed warehouse structure. Workshop activities, such as cutting and treatment of furniture, will not be carried out on site. Also, no heavy goods vehicles exceeding 24 tonnes, including container tractor/trailer will be allowed to access the Site. Plans showing the vehicular access leading to the Site, the site layout and the tree preservation proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form received on 6.9.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information received on 6.9.2018 **(Appendix Ib)** providing revised site layout and tree preservation plans

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Section 6 of Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) The Site is zoned “U” on the OZP pending further detailed studies on both drainage and traffic impacts and the preparation of detailed layout plan. The area to the west of Shan Ha Tsuen has also been recommended in the Yuen Long Plain Development Statement for open storage use. The subject application for temporary warehouse is in line with the planning intention of the “U” zone.
- (b) The Site falls within Stage 3 of the development schedule of the Yuen Long South Development, whereby the clearance of the Site and its surrounding area will not be realised within the next 36 months. The temporary warehouse use would not frustrate the future development within the area.
- (c) The surrounding developments are mainly warehouses and open storage yards, which are of similar natures of the applied development. The applied development is thus compatible with the surrounding land uses.
- (d) A number of similar applications for warehouse uses (No. A/YL-TYST/800, 823, 836, 852, 865, 893 and 902) have been approved within the same “U” zone, indicating that the Site is suitable for warehouse use.
- (e) All approval conditions imposed on the last planning approvals (No. A/YL-TYST/749) had been complied with and favourable consideration may be given by the Board to the current application.
- (f) There will be no adverse environmental, visual, drainage or traffic impacts. The storage facility would only operate during the daytime. The warehouse is fully enclosed and goods stored within are packed. No workshop activities will be carried out on site. The Site has been paved. Drainage facilities are provided under the previous application. Trip generation arising from the applied development will be low and only medium goods vehicles will be used.

### **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 use in the Site is under investigation. Should there be sufficient evidence to prove that the use on the Site constitutes an unauthorised development under the Town Planning Ordinance, enforcement action would be taken by the Planning Authority.

### **5. Previous Applications**

5.1 The Site was involved in eight previous applications (No. A/YL-TYST/173, 216, 319, 354, 391, 534, 605 and 749) for temporary open storage, vehicle repair workshop and warehouse uses all submitted by the same applicant. Details of the

applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

- 5.2 Applications No. A/YL-TYST/173, 216, 319 and 354 for temporary open storage or vehicle repair workshop uses for a period of 3 years covering different extents (with A/YL-TYST/173, 216 and 319 also straddling the adjacent “Village Type Development” zone) were rejected by the Committee/the Board on review on 23.8.2002, 16.1.2004, 8.9.2006 and 22.6.2007 respectively. The grounds of rejection include incompatibility with the surrounding rural land uses; non-compliance with the then Town Planning Board Guidelines No. 13C on ‘Application for Open Storage and Port Back-up Uses’; and failure to demonstrate proper vehicular access arrangement and no adverse environmental, visual and/or drainage impacts.
- 5.3 Applications No. A/YL-TYST/391, 534, 605 and 749 for temporary warehouse for storage of vehicle parts and construction materials/furniture were approved by the Committee with conditions for a period of 3 years on 6.6.2008, 3.6.2011, 24.8.2012 and 21.8.2015 respectively on similar considerations of not in conflict with the planning intention of the “U” zone and not incompatible with the surrounding areas; and departmental concerns to be addressed by imposing relevant approval condition(s). However, the planning permissions granted under Applications No. A/YL-TYST/391 and 534 were subsequently revoked due to non-compliance with approval conditions. All the approval conditions imposed on the last application (No. A/YL-TYST/749) had been complied with and the planning permission was valid up to 24.8.2018.
- 5.4 Compared with the last application, the current application is submitted by the same applicant for the same warehouse use with similar site layout on a slightly larger site with similar development parameters.

## **6. Similar Applications**

- 6.1 A total of 39 similar applications for various types of temporary warehouse 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 the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 All 39 applications were approved mainly on similar considerations that the developments were not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant government departments could be addressed by imposing approval conditions. However, amongst these approved applications, 11 were revoked due to non-compliance with approval conditions.

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

- 7.1 The Site is:
  - (a) accessible via a local track leading from Kung Um Road to its east;

- (b) paved and occupied by temporary structures;
- (c) currently occupied for the applied use without valid planning permission.

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

- (a) intermixed with warehouses, open storage/storage yards, workshops, residential structures, orchard, vehicle parks, cultivated agricultural land and unused land;
- (b) there are residential structures in its vicinity with the nearest one located about 20 m to its south;
- (c) the cluster of village houses in Pak Sha Tsuen is located to its south within the adjacent “Village Type Development” zone (**Plans A-2 and A-3**);
- (d) except for the open storage yards and/or warehouses operating under valid planning permissions No. A/YL-TYST/827, 861 and 907, the other warehouses, open storage/storage yards, workshops and vehicle parks in the vicinity are suspected unauthorised developments 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, Lot Nos. 1547 and 1548 in D.D. 119 are covered by Short Term Waivers (STWs) No. 3524 and 3525 respectively permitting structures erected thereon for the purpose of warehouse for storage.
- (c) The Site is accessible to Kung Um Road via Government land (GL). Her Office does not provide maintenance work for GL

involved and does not guarantee any right-of-way over the GL to the Site.

- (d) The Site does not fall within the Shek Kong Airfield Height Restriction Area.
- (e) 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 applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. 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(s) 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) No heavy goods vehicle exceeding 24 tonnes, including container tractor/trailer, should be allowed to park or enter/exit the Site.
- (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 shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (d) 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) The access arrangement should be commented by the Transport Department.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) 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 20 m to its south) (**Plan A-2**), and environmental nuisance is expected.
- (b) There was no 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 “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

## **Nature Conservation**

### 9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

He has no strong view on the application which involves continuation of the existing use which was previously approved. Should the application be approved, however, the applicant should be advised to adopt good site practices and implement necessary measures to avoid causing disturbances and water pollution to the nearby watercourses.

## **Drainage**

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

- (a) Based on the planning statement enclosed in the application, apparently the applicant would maintain the same drainage facilities as those maintained under previous planning application No. A/YL-TYST/749.
- (b) In view of the above, he has no objection in principle to the applied development. 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 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

## **Fire Safety**

### 9.1.7 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 advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, 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**

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

- (a) As there is no record of approval 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'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 his department, they are unauthorized 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 BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
  - (iii) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of his department should be obtained, otherwise they are UBW. An Authorized Person (AP) 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 respectively.
- (v) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

### **Others**

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

- (a) CEDD and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the Study). According to the Recommended Outline Development Plan of YLS promulgated on 8.8.2017, the Site falls within the areas zoned as “Local Open Space” (“LO”), “Other Specified Uses” (“OU”) annotated “Mixed Use” and an area 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.

#### 9.1.10 Comments of Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

- (a) We have no objection to the captioned temporary use for 3 years, which should be considered in accordance with the provisions of the current OZP and existing infrastructure capacities.
- (b) However, the Site falls within the boundary of YLS Development. According to the Study, to ensure timely and orderly implementation, the development of YLS and relevant site formation and infrastructure works would be implemented in four stages. The lot(s) concerned falls within a site under Stage 3 Works. While the detailed implementation programme for the project is still being formulated, based on the Study, it is envisaged that clearance of the site in question will not be arranged before the first population intake of the YLS Development expected in 2027.

### **District Officer's Comments**

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

The local consultation was completed and his Office has not received any comments from the village representatives in the vicinity regarding the application.

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

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

## **10. Public Comment Received During the Statutory Publication Period**

On 14.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.10.2018, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The subject application is for temporary warehouse for storage of furniture at the Site zoned "U" on the OZP. The applied use is not in conflict with the planning intention of the "U" zone on the OZP 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 the areas zoned as "LO", "OU" annotated "Mixed Use" and an area shown as 'Road' on the RODP of YLS promulgated on 8.8.2017, CE/CID of PlanD does not raise objection to the application and PM(W) of 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 subject "U" zone is mainly occupied by similar warehouses, open storage/storage yards and workshop uses, and similar uses are found in the vicinity of the Site (**Plan A-2**). As such, the development is 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, 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 at about 20 m south of the Site (**Plan A-2**), and environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. To address the concerns on the possible environmental nuisances generated by the temporary use and the technical concerns of other concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development 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 “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.

- 11.4 Given that four previous approvals for similar warehouse uses have been granted to the Site and 37 similar applications have been approved in this part of the “U” zone, approval of the current application is in line with the Committee’s previous decisions. It should also be noted that all the approval conditions imposed on the last application (No. A/YL-TYST/749) by the same applicant for the same use had been complied with.
- 11.5 Since the warehouse is already in operation and not covered by any valid planning permission, the applicant will be advised that prior planning permission should have been obtained before continuing the applied use at the Site.
- 11.6 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 temporary warehouse for storage of furniture 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 2.11.2021. 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 open storage, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (e) no heavy goods vehicles exceeding 24 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;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (g) all existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a condition record of the existing drainage facilities on the 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 2.2.2019;
- (j) 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 2.5.2019;
- (k) in relation to (j) 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 2.8.2019;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) 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
- (m) if any of the above planning conditions (i), (j) or (k) 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 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 proposed 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**

<b>Appendix I</b>	Application Form received on 6.9.2018
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	Supplementary Information received on 6.9.2018 providing revised site layout and tree preservation plans
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar Applications in this Part of the “U” Zone on the OZP since the Promulgation of TPB PG-No. 13E
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Plan showing the vehicular access leading to the Site
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Tree Preservation Plan
<b>Plan A-1a</b>	Location Plan with Previous and Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2018**