

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-TYST/932

<u>Applicant</u>	: Mr. CHAN Chung Lung, Ben
<u>Site</u>	: Lots 1220 RP (Part) and 1223 RP (Part) in D.D. 119 and Adjoining Government Land (GL), Kung Um Road, Shap Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: 358.88 m ² (about) (including about 6.22 m ² of GL)
<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>	: Renewal of Planning Approval for Temporary “Warehouse for Storage of Non-Staple Food” for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary warehouse for storage of non-staple food for a period of 3 years at the application site (the Site) for a further 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 occupied for the applied use and is covered by a valid planning permission under application No. A/YL-TYST/752 up to 8.1.2019 (**Plans A-2, A-4a to A-4c**).
- 1.2 The Site was subject to 3 previous planning applications (No. A/YL-TYST/505, 637 and 752) for the same applied use by the same applicant, which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) on 23.12.2010, 3.5.2013 and 8.1.2016 respectively (**Plan A-1b**). However, the planning approvals of applications No. A/YL-TYST/505 and 637 were subsequently revoked on 23.9.2012 and 3.2.2014 respectively due to non-compliance with approval conditions on the run-in/out and fire safety aspects. For the last application (No. A/YL-TYST/752), all the time-limited approval conditions have been complied with and the permission is valid up to 8.1.2019. Details of the previous applications are at paragraph 6 below

and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.

1.3 The Site abuts Kung Um Road to its southeast (**Plan A-2**). According to the applicant, the type of non-staple food being stored within the warehouse includes pre-packed instant noodles and neither raw nor cooked meat will be stored at the Site. No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, would be allowed to park or enter/exit the Site. The plan showing the site layout submitted by the applicant is at **Drawing A-1**.

1.4 The major development parameters of the application are summarized as follows:

Site Area	About 358.88 m ²
Total Floor Area (Non-domestic)	About 202.5 m ²
No. and Height of Structures	3 <ul style="list-style-type: none"> • for warehouse use (Structures No. 1 and 2) (3.2m and 3.6m, 1-storey) • for office use (Structure No. 3) (2.7m, 1-storey)
Loading/Unloading Space	1 (for light goods vehicle)
Operation Hours	8:00a.m. to 6:00p.m. with no operation on Sundays and Statutory Holidays

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

- (a) Application Form received on 9.11.2018 **(Appendix I)**
- (b) Supplementary Information received on 13.11.2018 **(Appendix Ia)** clarifying that the development parameters of the current application are the same as those of the last application
- (c) Further Information received on 11.12.2018 responding **(Appendix Ib)** to the Transport Department (TD)'s comments and clarifying the daily and hourly traffic generation arising from the proposed development

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**) and further information received on 11.12.2018 (**Appendix II**). They can be summarised as follows:

- (a) The Site is subject to a previous planning permission (No. A/YL-TYST/752) for the same use as the current application. All the approval conditions of the said permission have been complied with.
- (b) The proposed development offers job opportunity to the residents nearby.

- (c) No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, are allowed to park or enter/exit the Site.
- (d) Sufficient space is provided within the Site for manoeuvring of vehicles. There is no parking, queuing and reverse movement of vehicles on public road.
- (e) The trip rate is about 6 times 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 posting a notice of the application at 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. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34B) are relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The use is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

6. Previous Applications

- 6.1 The Site was involved in three previous applications (No. A/YL-TYST/505, 637 and 752) for temporary warehouse for storage of non-staple food, which were approved with conditions by the Committee for a period of 3 years on 23.12.2010, 24.5.2013 and 8.1.2016. Details of the applications are summarised in **Appendix III** and the boundaries of the Site are shown on **Plan A-1b**.
- 6.2 Applications No. A/YL-TYST/505 and 637 were approved with conditions by the Committee each for a period of 3 years on 23.12.2010 and 24.5.2013 respectively on the considerations that the development was not in conflict with the planning intention of the “U” zone and temporary approval would not frustrate the long-term use of the area; it was not incompatible with the surrounding areas; and the concerns of relevant government departments could be addressed by imposition of approval conditions. They were submitted by the same applicant for the same applied use on a larger site. However, the approvals were subsequently revoked on 23.9.2012 and 3.2.2014 due to non-compliance with approval conditions requiring the submission and implementation of run in/out proposal and fire service installations (FSIs) proposal.

- 6.3 The last application (No. A/YL-TYST/752), submitted by the same applicant for the same use on the same site, was approved with conditions for a period of 3 years by the Committee on 8.1.2016 on similar considerations as those for the previous approvals and shorter compliance periods were recommended in order to closely monitor the progress on compliance with associated approval conditions. All the approved conditions imposed on the previous application had been complied with and the validity of planning permission was up to 8.1.2019.
- 6.4 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.

7. Similar Applications

- 7.1 A total of 99 similar applications for various types of temporary warehouse with/without open storage and/or ancillary workshop/site office uses in this part of the “U” zone had been considered by the Committee or the Board on review since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix IV** and the locations of the Sites are shown on **Plan A-1a**.
- 7.2 There are 96 approved applications for various types of temporary warehouse with/without open storage and/or ancillary workshop/ site office uses. They are 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, amongst these approved applications, 32 were revoked due to non-compliance with approval conditions.
- 7.3 There are three applications (No. A/YL-TYST/478, 922 and 926) rejected by the Board on review/the Committee on 22.10.2010, 2.11.2018 and 7.12.2018 respectively, mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent.

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

- 8.1 The Site is:
- (a) abutting Kung Um Road to its southeast;
 - (b) paved and fenced off; and
 - (c) currently used for the applied use with valid planning permission.
- 8.2 The surrounding areas have the following characteristics (**Plan A-2**):
- (a) mixed with warehouses, open storage/storage yards, vehicle repair workshop, residential structures and vacant/unused land;
 - (b) to its west, north and southwest are warehouses, of which 5 of them are operating with valid planning permission under applications No. A/YL-TYST/801, 893, 889, 904 and 916;

- (c) to its further northeast, it is a site for open storage of construction materials, iron pipe and manhole cover which is tolerated under Town Planning Ordinance;
- (d) there are scattered residential structures in its vicinity, with the nearest one located about 50m to its northeast;
- (e) there is an area zoned “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) to its east across Kung Um Road and Pak Sha Road; and
- (f) except the 5 warehouses to its north and west operating under valid planning permissions and an open storage yard to its northeast which is tolerated under Town Planning Ordinance, the other warehouses, open storage/storage yards and vehicle repair workshop in the vicinity are suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

9. 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.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 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, GL adjoining 1223 RP in D.D.119 is covered by Short Term Tenancy (STT) No. 3091, Lot 1220 RP and 1223 RP in D.D. 119 are covered by Short Term Waivers (STWs) No. 4733 and 4734 respectively permitting structures erected thereon for the purpose of temporary warehouse for storage of non-staple food.
- (c) The Site is accessible from Kung Um Road via GL. Her office provides no maintenance work for the 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/STT 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 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 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

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

- (a) He has no comment on the submitted Further Information (**Appendix Ib**).
- (b) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractors/trailers, should be allowed to park or enter/exit the Site.
- (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.

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

- (a) The access arrangement should be commented by TD.
- (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

10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no 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 “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

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

- (a) Based on the supplementary information of the application (**Appendix Ia**), apparently the applicant would maintain the same drainage facilities as those maintained under previous planning application No. A/YL-TYST/752.
- (b) In view of the above, he has no objection in principle to the proposed 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 condition record 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

10.1.6 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) 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

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

- (a) There is no record of approval by the Building Authority for the structures existing at the Site and his department is not in a position to offer comments on their suitability for the use related to the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of his department (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application.
 - (ii) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on leased land in the application site, the prior approval and consent of his department should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) For UBW erected on leased land, enforcement action may be taken by his department to effect their removal in accordance with his department'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.
 - (iv) In connection with (ii) above, 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) 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 B(P)R at the building plan submission stage.

Others

10.1.8 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 (RODP) of YLS promulgated on 8.8.2017, the Site falls within areas zoned as "Local Open Space" ("LO") 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.

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

- (a) He has no objection to the application.
- (b) However, the Site falls within the project boundary of the proposed YLS Development – Stage 2. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong. The applicant shall be reminded that extension of the planning permission may not be supported in future when the detailed implementation programme of works in the Site under YLS Development – Stage 2 is formulated.

District Officer's Comments

10.1.10 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 comment from the village representatives in the vicinity on the application.

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

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

11. Public Comment Received During the Statutory Publication Period

On 16.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 7.12.2018, no public comment was received from members of the public.

12. Planning Considerations and Assessments

- 12.1 The subject application is for renewal of the planning permission under previous application No. A/YL-TYST/752 for temporary warehouse for storage of non-staple food for a period of 3 years at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone 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 an area zoned “LO” 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.

- 12.2 The applied development is not incompatible with the surrounding land uses which are mainly mixed with warehouses, open storage/storage yards, vehicle repair workshop (**Plan A-2**).
- 12.3 The application is generally in line with TPB PG-No. 34B in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TYST/752; the approval conditions have been complied with; and the 3-year approval period sought is of the same timeframe as the previous approval.
- 12.4 There is no adverse comment on the application from concerned government departments and there has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 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 unauthorized 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 minimise any potential environmental impact.
- 12.5 Given that three previous approvals for the same applied use has been granted to the Site and 96 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.
- 12.6 There is no public comment received on the application during statutory publication period.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary warehouse for storage of non-staple food could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a further period of 3 years from 9.1.2019 to 8.1.2022. 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 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and statutory holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.4.2019;
- (g) 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 9.7.2019;
- (h) in relation to (g) 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 9.10.2019;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (j) if any of the above planning conditions (f), (g) or (h) 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.

[Approval conditions (a) to (f), (h) to (j) are the same as those under the permission for application No. A/YL-TYST/752, while an approval condition on the implementation of the accepted run-in/out proposal is deleted and an approval condition requiring the implementation of the accepted FSIs proposal are updated to accord with the departments' latest requirements.]

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 9.11.2018
Appendix Ia	Supplementary Information received on 13.11.2018 clarifying that the development parameters of the current application are the same as those of the last application
Appendix Ib	Further Information received on 11.12.2018 responding to TD's comments and clarifying the daily and hourly traffic generation arising from the proposed development
Appendix II	Relevant extract of the Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)
Appendix III	Previous Applications Covering the Application Site
Appendix IV	Similar Applications in this Part of the "U" Zone on the OZP since the Promulgation of TPB PG-No. 13E
Appendix V	Recommended Advisory Clauses
Drawing A-1	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
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JANUARY 2019**