

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/945

- Applicant** : To Jarm Chuen represented by Metro Planning and Development Company Limited
- Site** : Lots 1062 (Part), 1125 (Part), 1127 (Part) and 1128 (Part) in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 523m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Warehouse and Open Storage of Homeware 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 and open storage of homeware for a period of 3 years (**Plan A-1**). 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 with valid planning permission under application No. A/YL-TYST/781 up to 18.3.2019.
- 1.2 The Site was involved in two previous applications (No. A/YL-TYST/632 and 781) for similar open storage use with or without warehouse, which were both approved with conditions for a period of 3 years each by the Rural and New Town Planning Committee (the Committee) of the Board on 15.3.2013 and 18.3.2016 respectively (**Plan A-1**). All the time-limited approval conditions of the last application (No. A/YL-TYST/781) have been complied with. 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 with slightly different development parameters, *inter alia*, a decrease in total floor area.

1.3 The Site is accessible from Kung Um Road to its east via a local track (**Plan A-3** and **Drawing A-1**). According to the applicant, the items to be stored on-site include towel, bowl and home decoration. No furniture, electronic wastes and used electrical appliances will be stored at the Site. As proposed by the applicant, only light vans not exceeding 3.5 tonnes will be allowed to enter the Site. The applicant also undertakes to preserve eleven existing trees at the Site including replacement of dead trees, clearing of weeds and climbers, and provide regular irrigation; no open storage will take place within 1m diameter of all the trees within the Site. Plans showing the vehicular access leading to the Site, layout plan, landscape and tree preservation plan and as-built drainage plan submitted by the applicant are at **Drawings A-1 to A-4**.

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/781 (a)	Current Application No. A/YL-TYST/945 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse and Open storage of Homeware for a Period of 3 Years		---
Site Area	About 523m ²	About 523m ²	---
- Uncovered Area	243m ²	295m ²	+52m ² (+21.4%)
- Covered Area	280m ²	228m ²	-52m ² (-18.6%)
Total Floor Area (Non-domestic)	280m ²	228m ²	-52m ² (-18.6%)
No. and Height of Structures	1 (6.5m, 1 storey) (warehouse for storage with a converted container inside for site office use)		---
Parking Space	1 (5m x 2.5m) (for private car and light goods vehicle)	---	Change from a parking space to a loading/unloading space for light van
Loading/Unloading Space	---	1 (5m x 2.5m) (for light van)	
Operation Hours	7:00 a.m. to 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and Public Holidays		---

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

- (a) Application Form with an annex and plans received on 17.1.2019 (**Appendix I**)
- (b) Supplementary Information received on 23.1.2019 (**Appendix Ia**) clarifying the weight of light van to not exceed 3.5 tonnes

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form at **Appendix I** and the Supplementary Information at **Appendix Ia**. They can be summarised as follows:

- (a) The Site is the subject of two previous applications (No. A/YL-TYST/632 and 781) with the latter for the same applied use. All the planning conditions imposed on the previous application have been complied with. The planning circumstances remain unchanged since the approval of the last planning permission in 2016.
- (b) The development is compatible with the surrounding areas. According to the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E), the Site falls within Category 1 area which is considered suitable for open storage and port back-up uses.
- (c) A number of open storage yards have been approved by the Board in the vicinity of the Site. Similar treatment should be given to the current application. Besides, there is a shortage of land for open storage purpose in Tong Yan San Tsuen.
- (d) The development will not cause adverse drainage, landscape or traffic impacts. There will be minimal traffic impact due to the limited scale and the static nature of the development. There are 11 existing trees at the Site which would be preserved and the applicant will provide tree preservation measures, including replacement of dead trees, clearing of weeds and climbers, and regular irrigation; no open storage will take place within 1m diameter of all the trees within the Site. Drainage facilities have been provided at the Site.
- (e) Only light vans not exceeding 3.5 tonnes will be allowed to enter the Site. Also no storage of used electrical appliances and electronic wastes will be carried out within the Site.

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. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) are relevant to the application. The Site falls within Category 1 areas under TPB PG-No. 13E promulgated by the Board on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site was involved in 2 previous applications (No. A/YL-TYST/632 and 781) for similar temporary open storage use with or without warehouse. Details of the applications are summarised in **Appendix III** and the boundaries of the Site are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TYST/632 for temporary open storage of construction materials and ceramic ware was approved with conditions for a period of 3 years by the Committee on 15.3.2013. All the time-limited conditions had been complied with and the planning approval lapsed on 16.3.2016.
- 6.3 The last application (No. A/YL-TYST/781) for the same applied use as the current submitted by the same applicant was approved with conditions for a period of 3 years by the Committee on 18.3.2016. All the time-limited conditions have been complied with and the permission is valid up to 18.3.2019.
- 6.4 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with slightly different development parameters, *inter alia*, a decrease in total floor area.

7. **Similar Applications**

- 7.1 A total of 137 similar applications for various types of temporary open storage uses with or without warehouse and/or ancillary workshop/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 summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.
- 7.2 Out of the 137 similar applications, 132 of which 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, 50 were subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining five similar applications (No. A/YL-TYST/472, 478, 922, 926 and 943) were either rejected by the Committee or the Board on review on 7.5.2010, 22.10.2010, 2.11.2018, 7.12.2018 and 1.2.2019 respectively, mainly on the grounds that, amongst others, that approval of the 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.

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

- 8.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east (**Plan A-3**);
- (b) paved and fenced off; and
- (c) currently occupied for the applied use with valid planning permission under application No. A/YL-TYST/781 up to 18.3.2019.

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

- (a) comprise mainly warehouses intermixed with some open storage yards, various workshops, a logistics centre, a club house for motor cars, parking of vehicles, some grave yards, scattered residential structures and vacant structures/land;
- (b) there are existing residential structures in the vicinity of the Site with the nearest one located less than 5m to the immediate west (**Plan A-2**);
- (c) there are two open storage yards with ancillary workshops located to the south and further south, as well as two warehouses to the east and southeast, which are operating with valid planning permissions under applications No. A/YL-TYST/790, 860, 836 and 852 respectively; and
- (d) except for the aforementioned operations operating under valid permissions, the other warehouses, open storage yards, workshops, logistics centre, club house for motor cars, and parking of vehicles in the vicinity of the Site are suspected unauthorised development (UD) 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) Lot 1127 in D.D. 119 is covered by Short Term Waiver (STW) No. 4054 which permits the structure(s) erected thereon for the purpose of 'temporary open storage of construction materials and ceramic ware'.
- (c) The Site is accessible from Kung Um Road via government land (GL) and private land. Her office does not provide 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 Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. 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

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

- (a) No medium or heavy goods vehicle exceeding 5.5 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 should 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) 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 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

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

- (a) There was no environmental complaint concerning the Site received in the past 3 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 the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisances.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Based on the planning statement enclosed in the application, the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/781.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities, and 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

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 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;
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
 - (iii) the good practice guidelines for open storage (**Appendix V**) should be adhered to.
- (c) Moreover, having considered the nature of the open storage, an approval condition for the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to his satisfaction shall be stipulated; and the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.
- (d) The applicant is reminded that should any structure(s) be proposed and are 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) 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 BD, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by 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 BD should be obtained, otherwise they are UBW. An Authorised Person should be appointed as

the co-ordinator for the proposed building works in accordance with the BO.

- (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (v) 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) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site mainly falls within an area zoned as “Other Specified Uses” (“OU”) annotated “Hillside River Corridor with Scenic Cycle Track”.
- (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), CEDD (PM(W), CEDD):

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

District Officer’s Comments

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.

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 25.1.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 15.2.2019, no public comment was received.

12. Planning Considerations and Assessments

12.1 The subject application is for temporary warehouse and open storage of homeware at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone which is generally intended for open storage use but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. While the Site falls within an area zoned as “OU” annotated “Hillside River Corridor with Scenic Cycle Track” 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 would not jeopardise the long-term development of the area.

12.2 The surrounding areas comprise mainly warehouses intermixed with some open storage yards, various workshops, a logistics centre, a club house for motor cars, parking of vehicles, some grave yards, scattered residential structures and vacant structures/land (**Plan A-2**). The development is not considered incompatible with the surrounding uses.

12.3 According to TPB PG-No. 13E, the Site falls within Category 1 areas. The following guidelines are relevant:

Category 1 areas are considered suitable for open storage and port back-up uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

The application is generally in line with TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up use; and the technical concerns of relevant government departments could be addressed through the implementation of approval conditions.

- 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 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 Code of Practice in order to minimise any potential environmental impact, and to keep the Site clean and tidy at all times.
- 12.5 Given that two previous approvals (No. A/YL-TYST/632 and 781) for similar temporary open storage uses with or without warehouses have been granted to the Site and 132 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 above, the Planning Department considers that the temporary warehouse and open storage of homeware 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 period of 3 years until 8.3.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 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 storage of used electrical appliances or any types of electronic waste, as proposed by the applicant, is allowed on the site at any time during the planning approval period;
- (d) no repairing, dismantling, maintenance, cleaning or any other workshop activities are allowed on the Site at any time during the planning approval period;
- (e) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, at any time during the planning approval period;

- (f) no vehicle is allowed to queue back to or reverse onto/from public road, as proposed by the applicant, at any time during the planning approval period;
- (g) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (h) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (i) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) 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 8.6.2019;
- (k) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.4.2019;
- (l) 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 8.9.2019;
- (m) in relation to (l) 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 8.12.2019;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (i) 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
- (o) if the above planning condition (j), (k), (l) or (m) 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 VI**.

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 with an annex and plans received on 17.1.2019
Appendix Ia	Supplementary Information received on 23.1.2019 clarifying the weight of light van to not exceed 3.5 tonnes
Appendix II	Relevant extract of the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13E)
Appendix III	Previous Applications covering the 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	The Good Practice Guidelines for Open Storage Sites
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Plan showing the vehicular access leading to the Site
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A4-b	Site Photos

**PLANNING DEPARTMENT
MARCH 2019**