

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/960

<u>Applicant</u>	: Nice China Enterprise Limited represented by Top Bright Consultants Limited
<u>Site</u>	: Lots 1195 (Part), 1197 S.A (Part), 1198 S.C (Part) and 1198 S.F (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 1,255m ² (about)
<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>	: Temporary Warehouse for Storage of General Goods 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 general goods for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is bisected into two portions by a local track; the eastern portion is currently occupied by a vacant warehouse and the western portion is currently undergoing construction works (**Plans A-2 and A-4a to A-4b**).
- 1.2 The Site was involved in one previous application (No. A/YL-TYST/212) for temporary open storage of building plants/materials and mobile container site office for a period of 3 years which was rejected by the Board on review on 12.12.2003. Details of the previous application are at paragraph 5 and **Appendix II**. Compared with the previous application, the current application is submitted by a different applicant for a different use on a slightly smaller site and with a different site layout.
- 1.3 According to the applicant, no open storage and workshop activities will be carried out at the Site. The Site will only be used to store general household

products (including facial tissue paper, toilet roll tissue paper, and kitchen paper towels, etc). No electronic goods will be stored at the Site. Only light goods vehicle (LGV, not exceeding 5.5 tonnes) will be used for delivery of goods. The development will generate approximately two to three vehicle round trips per day. The applicant pledges to plant four trees at the Site. Plans showing the vehicular access leading to the Site, site layout, and proposed landscaping submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.4 The major development parameters of the previously rejected application and the current application are summarised as follows:

Major Development Parameters	Previously Rejected Application No. A/YL-TYST/212 (a)	Current Application No. A/YL-TYST/960 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Building Plants/Materials and Mobile Container Site Office for a Period of 3 Years	Temporary Warehouse for Storage of General Goods for a Period of 3 Years	Change in use
Site Area	1,295m ²	1,255m ²	-40 m ² (-3.1%)
Total Floor Area (Non-domestic)	--	920m ²	+920m ²
No. and Height of Structures	6 • Six container site offices	6 • Two warehouses (6 - 8.4m, 1 storey) • One meter room (2.5m, 1 storey) • One canopy (4m, 1 storey) • Two washrooms (2.5m, 1 storey)	--
Loading/ Unloading Bay	--	1 (for LGV) (3.5m x 7m)	+1
Operation Hours	--	10:00 a.m. to 4:00 p.m. with no operation on Sundays and Public Holidays	Restricted operation hours

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

- (a) Application Form received on 15.3.2019 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information received on 20.3.2019 **(Appendix Ib)** clarifying the type of goods to be stored on the Site

- (d) Further Information received on 17.4.2019 responding to the comments of the Transport Department (TD) and Water Services Department (WSD) **(Appendix Ic)**
[accepted and exempted from publication and recounting requirements]
- (e) Further Information received on 2.7.2019 providing clarification on the proposed operating hours **(Appendix Id)**
[accepted and exempted from publication and recounting requirements]

1.6 On 3.5.2019, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer a decision on the application for a period of two months, as requested by the applicant's representative. On 2.7.2019, further information **(Appendix Id)** was received and the application is submitted to the Committee for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Chapter 6 of the Supplementary Planning Statement at **Appendix Ia**, Supplementary Information at **Appendix Ib** and Further Information at **Appendix Ic**. They can be summarised as follows:

- (a) The development is compatible with the surrounding areas and in line with the planning intention of the "U" zone.
- (b) A number of similar applications have been approved by the Board in the vicinity of the Site. This indicates that the Site is suitable for warehouse use.
- (c) There are existing drainage facilities at the Site. The development will not cause adverse drainage, environmental, landscape, traffic or visual impacts.

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 near the site entrance 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 Site is currently not subject to planning enforcement action.

5. Previous Application

- 5.1 The Site was the subject of a previous application (No. A/YL-TYST/212) covering a slightly larger site for temporary open storage of building plants/materials and mobile container site office for a period of three years. This application was rejected by the Committee and by the Board on review on 29.8.2003 and 12.12.2003 respectively mainly on the grounds that the proposal did not comply with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13C) in that the proposal was not compatible with the surrounding residential and rural uses, and there was no information in the submission to demonstrate that the development would not generate adverse environmental and drainage impacts on the surrounding areas. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.
- 5.2 Compared with the last application, the current application is submitted by a different applicant for a different use on a slightly smaller site with different site layout and development parameters.

6. Similar Applications

- 6.1 A total of 112 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 summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Out of the 112 similar applications, 108 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, 39 were subsequently revoked due to non-compliance with approval conditions.
- 6.3 The remaining four applications (No. A/YL-TYST/478, 922, 926 and 943) were rejected by the Committee/the Board on review on 22.10.2010, 2.11.2018, 7.12.2018 and 1.2.2019 respectively, mainly on the grounds, amongst others, that approval of application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar planning permissions for temporary uses thus nullifying the statutory planning control mechanism, amongst other grounds.

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

- 7.1 The Site is:
- (a) accessible from Kung Um Road to its east via a local track (**Plan A-3**);
 - (b) paved and fenced off; and

- (c) bisected into two portions by a local track; the eastern portion is currently occupied by a vacant warehouse and the western portion is currently undergoing construction works, both with separate ingress/egress points.

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

- (a) comprise mainly warehouses intermixed with some storage/open storage yards, scattered residential structures, a workshop, parking of vehicles and some vacant land/structures;
- (b) there are existing residential structures in the vicinity of the Site with the nearest one located about 5m to the south;
- (c) there are warehouses generally located to the north and south of the Site which are operating with valid planning permissions under application No. A/YL-TYST/801, 806, 867, 879 and 904;
- (d) there are open storage yards located to the west of the Site which are operating with valid planning permissions under application No. A/YL-TYST/898 and 944; and
- (e) except for the aforementioned operations operating with valid planning permission, the other open storage yards, warehouses, parking of vehicles and workshop in the vicinity of the Site are suspected unauthorised developments (UD) 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 and public comments, where relevant, are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots (OSAL) and a Building Licence has been granted for Lot No. 1197 S.A in D.D. 119 for erection of a New Territories Exempted House. The OSALs were 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 No. 1198 S.C and 1198 S.F are covered by Short Term Waiver (STW) No. 4527 to permit structures erected thereon for the purpose of “Temporary Open Storage and Warehouse for Storage of Furniture, Exhibition Materials, Construction Materials/Machinery and Household Detergent”.
- (c) The Site is accessible from Kung Um Road via Government Land (GL) and private land. 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 Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW(s) holder(s) will need to apply to her office for modification of the STW(s) conditions where appropriate. The owner(s) of the lot(s) without STW(s) will need to apply to her office to permit the structures to be erected or regularise any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. 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 as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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) The land status of the access road/path/track leading to the Site from Kung Um Road should be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (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.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

Environment

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

- (a) There has been no substantiated environmental complaint concerning the Site received in the past 3 years.
- (b) With respect to the public concern on the noise nuisance and other environmental impacts from the proposed development, it is noted from the Supplementary Planning Statement (**Appendix Ia**) that no workshop activities will be carried out within the premises. Nevertheless, it is the obligation of the applicant to comply with Noise Control Ordinance and all relevant ordinances in Hong Kong, including the Air Pollution Control Ordinance, Water Pollution Control Ordinance and Waste Disposal Ordinance.
- (c) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisance.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to

submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also 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 FSI to be installed should be clearly marked on the layout plans.
- (c) 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

9.1.7 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 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 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

- 9.1.8 Comments of the Chief Engineer/Construction, WSD (CE/C, WSD)
- (a) She has no objection to the application.
 - (b) However, existing water mains will be affected (**Plan A-2**) which will require diversion. All costs associated with the diversion work shall be borne by the applicant.
 - (c) If diversion of the affected mains is not practicable, 3m wide Waterworks Reserves centred along the centrelines of the affected water mains shall be provided. No structure shall be erected over any waterworks reserve, and such area shall not be used for storage purposes of for parking or storage of any vehicles. Free access shall be maintained and provided to the Water Authority and his officers, agents and contractors and his or their workmen with necessary plant and vehicles at all times to the said area for the purpose of laying, repairing and maintaining of water mains and all other installations and services across, through or under the said area. Government shall not be liable for any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in the vicinity of the Site.
- 9.1.9 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 falls within an area zoned as “Other Specified Uses” annotated “Mixed Use” “OU(MU)”.
 - (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 the Project Manager (West), CEDD (PM(W), CEDD):
- (a) He has no objection to the 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

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) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 22.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.4.2019, four comments from the general public (**Appendices IV-1 to IV-4**) were received objecting to the application mainly with concerns on the types of goods stored and the operations to be carried out on the Site; and the potential environmental nuisance (including noise and fugitive dust impact and sewerage disposal), traffic impact (including congestion, proliferation of heavy vehicles and reverse movement of vehicles), drainage impact and fire risk from illegal power connection associated with the proposal.

11. Planning Considerations and Assessments

11.1 The subject application is for temporary warehouse for storage of general goods 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 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 "OU(MU)" on the RODP of YLS promulgated on 8.8.2017, CE/CID, PlanD does not raise objection to the application and PM(W), 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.

11.2 The surrounding areas comprise mainly warehouses intermixed with storage/open storage yards, scattered residential structures, a workshop, parking of vehicles and some vacant land/structures (**Plan A-2**). The development is generally not incompatible with the surrounding uses in the subject "U" zone.

11.3 Relevant government departments, including C for T, DEP, D of FS and CE/MN, DSD, have no adverse comment on the proposed development, and there has been

no substantiated environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments and public concerns. 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 revised Code of Practice in order to minimise any potential environmental impact.

11.4 Given that 108 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. There were one previous application and 4 similar applications in this part of the “U” zone rejected on the grounds that, amongst others, the developments were not compatible with the surrounding residential uses; there was insufficient information to demonstrate no adverse drainage/environmental impacts; and approval of applications with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses thus nullifying the statutory planning control mechanism. However, such considerations are not applicable to the current application as relevant departments have no adverse comments on/objection to the current application.

11.5 There are four objecting public comments received on the application during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary warehouse for storage of general goods 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 16.8.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 4:00 p.m. and 10:00 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 or workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) 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;

- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing boundary fence on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.2.2020;
- (h) in relation to (g) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.5.2020;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (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 16.2.2020;
- (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 16.5.2020;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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
- (m) if any of the above planning conditions (g), (h), (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 V**.

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

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 15.3.2019
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information received on 20.3.2019 clarifying the type of goods to be stored
Appendix Ic	Further Information received on 16.4.2019 responding to the comments of TD and WSD
Appendix Id	Further Information received on 2.7.2019 providing clarification on the proposed operating hours
Appendix II	Previous Application covering the Site
Appendix III	Similar Applications in this part of the “U” zone on the OZP since the promulgation of TPB PG-No. 13E
Appendices IV-1 to IV-4	Public Comments Received During the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Proposed Landscape Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2019**