

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

**APPLICATION NO. A/YL-TYST/1015**

<b><u>Applicant</u></b>	: Mr. TANG Mo Pun represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lot 2377 (Part) in D.D. 120, Tong Yan San Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	: 365 m <sup>2</sup> (about)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
<b><u>Zoning</u></b>	: “Undetermined” (“U”)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Warehouse for Storage of Construction Machinery and Construction Material for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval for temporary warehouse for storage of construction machinery and construction material for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP for “U” zone, all uses or development except those specified in the covering Notes require permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/841 (**Plans A-2 and A-4**).
- 1.2 The Site involves a previous application (No. A/YL-TYST/841) for the same use as the current application (**Plan A-1**), which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 23.6.2017. All the approval conditions under the previous application had been complied with and the planning permission is valid until 23.6.2020. Compared with the previous application, the current application is submitted by the same applicant for the same use with the same layout and development parameters covering the same site.

- 1.3 According to the applicant, the warehouse is for storage of construction machinery (e.g. electric generators and elevation platform) and construction material (e.g. sanitary ware and tiles). No open storage, repairing, dismantling, cleaning or other workshop activities will be carried out at the Site. Furthermore, no medium and heavy goods vehicles as well as container trailers and tractors will be allowed to enter/park at the Site. Plans showing the vehicular access leading to the Site, site layout, landscape and tree preservation proposal, as-built drainage facilities and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the previously approved application are the same as the current application, which are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TYST/841 (a)</b>	<b>Current Application No. A/YL-TYST/1015 (b)</b>
Applied Use	Temporary Warehouse for Storage of Construction Machinery and Construction Material for a Period of 3 Years	
Site Area	About 365 m <sup>2</sup>	
Total Floor Area (Non-domestic)	About 228 m <sup>2</sup>	
No. and Height of Structures	One for warehouse (7m, 1 storey)	
No. of Parking Space	Nil	
No. of Loading/Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m)	
Operation Hours	10:00 a.m. to 4:00 p.m., with no operations on Sundays and public holidays	

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annex and plans received on 9.4.2020 (**Appendix I**)
  - (b) Supplementary Information dated 17.4.2020 clarifying the proposed operation hours (**Appendix Ia**)
  - (c) Further Information (FI) dated 21.4.2020 providing clarifications on proposed use and site layout and a FSIs proposal with fire certificate (**Appendix Ib**)
  - (d) FI dated 21.5.2020 clarifying the proposed operation (**Appendix Ic**)  
*[(c) and (d) are accepted and exempted from publication and recounting requirements]*

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

The justifications put forth by the applicant in support of the application are mainly detailed in Part 7 of the Application Form and the FI (**Appendices I and Ic** respectively). They can be summarised as follows:

- (a) The Site is the subject of a previous planning permission (No. A/YL-TYST/841) with same use and development parameters as the current application. All planning conditions imposed to the previous application had been complied with. There is no change in planning circumstances since the approval of the previous application.
- (b) According to the then Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), the Site falls within Category 1 areas and is considered suitable for open storage and port back-up uses. The proposed development would not generate queuing of traffic outside the Site.
- (c) The proposed temporary use would not jeopardise the long-term planning intention of the “U” zone. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site. The development is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up uses in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal. Adequate space for manoeuvring of vehicles will be provided.

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

## **5. Background**

The Site is currently not subject to planning enforcement action.

## 6. Previous Application

The Site involves one previous application (No. A/YL-TYST/841) for the same use as the current application, which was approved with conditions for a period of 3 years by the Committee on 23.6.2017, mainly on the considerations that the proposal was not in conflict with the planning intention of the “U” zone; approval of the application on a temporary basis would not frustrate the long-term development of the area; the development was not incompatible with the surrounding uses; the technical concerns of relevant government departments could be addressed by imposing approval conditions; and similar applications had been approved in the area. All the approval conditions under the previous application had been complied with and the planning permission is valid until 23.6.2020. Details of the previous application are summarised in **Appendix III** and the boundary of the site is shown on **Plan A-1**. Compared with the previous application, the current application is submitted by the same applicant for the same use with the same layout and development parameters covering the same site.

## 7. Similar Applications

- 7.1 A total of 53 similar applications for various temporary warehouse/storage 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 2008. Details of the applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.
- 7.2 All 53 applications were approved mainly on similar considerations that they were generally in line with the then TPB PG-No.13E (for cases involving open storage use); the developments were not incompatible with the surrounding open storage/warehouse uses; and departmental concerns could be addressed by imposing relevant approval conditions. However, amongst these approved applications, 16 were revoked due to non-compliance with approval conditions.

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

- 8.1 The Site is:
- (a) accessible via a local track leading from Kung Um Road to its east (**Drawing A-1** and **Plan A-2**);
  - (b) paved and fenced-off; and
  - (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/841.
- 8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
- (a) comprising predominately warehouses and open storage/storage yards with scattered residential structures, workshops, parking of vehicles, a sewage pumping station, agricultural land and vacant land/structures;
  - (b) there are residential structures in the vicinity with the nearest one located 20m to its southwest (**Plan A-2**);

- (c) to the north of the Site across Yuen Long Highway is an area zoned “Open Space” on the approved Yuen Long OZP No. S/YL/23;
- (d) to the south of the Site is an area zoned “Village Type Development” on the OZP; and
- (e) except for four opens storage yards and one warehouse in the vicinity operating with valid planning permissions (No. A/YL-TYST/877, 880, 952, 963 and 981 respectively), the other warehouses, open storage/storage yards, parking of vehicles and workshops in the vicinity are suspected unauthorised developments (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 an Old Schedule Agricultural Lot 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) Should planning approval be given to the application, the lot owner 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. 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 rent or fee, as may be imposed by her department.

- (c) The programme of land resumption would follow the agreed programme among relevant departments notwithstanding the validity period of the planning permission to be granted.

### **Traffic**

#### 10.1.2 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 shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall 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.

#### 10.1.3 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**

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

Should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

### **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 development.
- (b) Based on the drainage proposal (**Drawing A-4**) enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/841.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the

maintenance of the drainage facilities implemented under application No. A/YL-TYST/841 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):

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

### **Building Matters**

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

The applicant's attention is drawn to the following points:

- (a) 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 Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (b) 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.
- (c) Before any new building works (including containers/open sheds as temporary buildings) 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.
- (d) 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.
- (e) 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 Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area zoned “District Open Space” (“DO”).
- (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 Project Manager (West), CEDD (PM(W), CEDD):

- (a) The Site falls within the boundary of YLS development – Stage 1 (the project). To meet the target first population intake under the project by Q4 of 2028, land clearance is planned to commence in mid-2022 subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project by Q4 2021 and Q1 2022 respectively.
- (b) He has no objection to the application for temporary use for three years on the understanding that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted and an advisory clause that ‘the Site might be subject to land resumption for the implementation of the YLS development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned YLS development – Stage 1’ is incorporated to remind the applicant that the land might be resumed at any time during the planning approval period. He will give sufficient notice to relevant department(s) for early resumption of the Site if his works commence early.

**District Officer’s Comments**

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

Her office has not received any comment from the village representatives in the vicinity regarding 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 17.4.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual (**Appendix V**) questioning the long-term development plans for the area.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for renewal of the planning permission under previous application No. A/YL-TYST/841 for temporary warehouse for storage of construction machinery and construction material 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. Whilst the Site falls within an area zoned ‘DO’ on the Revised RODP of YLS, CE/CID of 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 of 3 years would not jeopardise the long-term development of the area.
- 12.2 The surrounding areas comprise mainly warehouses and open storage/storage yards (**Plan A-2**). Although there are residential structures nearby, the proposal is generally not incompatible with the surrounding uses in the “U” zone.
- 12.3 The application is generally in line with TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TYST/841; the approval conditions under the previous application No. A/YL-TYST/841 had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD and DEP. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below 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 latest Code of Practice to minimise any potential environmental impact on the surrounding areas.

- 12.5 Given that a previous approval for the same use as the current application has been granted to the Site and 53 similar applications have been approved in this part of the “U” zone since 2008, approval of the current application is in line with the Committee’s previous decisions.
- 12.6 There was one public comment received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comment as mentioned in paragraph 11 above, the Planning Department considers that the temporary warehouse for storage of construction machinery and construction material could be tolerated for a further 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 from 24.6.2020 to 23.6.2023. 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, repairing, dismantling, cleaning or other 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 trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 24.9.2020;

- (i) the existing fire service installations implemented on the Site should be maintained in efficient working order at all times during the planning approval period;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) 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
- (k) if the above planning condition (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), (b), (d) and (e) are the same as those under the permission for application No. A/YL-TYST/841, conditions (c), (f), (g), (h) and (i) have been updated as per the current proposal, and the reinstatement clause is deleted to accord with the departments' latest requirements.]

#### Advisory clauses

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

13.1 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**

<b>Appendix I</b>	Application Form with annex and plans received on 9.4.2020
<b>Appendix Ia</b>	Supplementary Information dated 17.4.2020
<b>Appendix Ib</b>	FI dated 21.4.2020
<b>Appendix Ic</b>	FI dated 21.5.2020
<b>Appendix II</b>	Relevant extract of TPB PG-No. 34C
<b>Appendix III</b>	Previous Application covering the Site
<b>Appendix IV</b>	Similar Applications in this Part of the "U" Zone on the OZP since 17.10.2008
<b>Appendix V</b>	Public Comment received during the Statutory Publication

	Period
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Drawing A-3</b>	Landscape and Tree Preservation Proposal
<b>Drawing A-4</b>	As-built Drainage Plan
<b>Drawing A-5</b>	FSIs Proposal
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2020**