

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1057

- Applicant** : Mr. CHEUNG Fook Wo represented by Mr. YEUNG Yau Sing
- Site** : Lot 1022 in D.D.119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 870 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Storage of Construction Materials 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 storage of construction materials for a period of 3 years (**Plan A-1a**). According to the covering Notes of the OZP, all uses or development within the “U” zone except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site involves 3 previous approved applications (No. A/YL-TYST/561, 592 and 640) for temporary open storage of construction machinery and construction materials (**Plan A-1b**). The last application (No. A/YL-TYST/640) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 21.6.2013. However, the planning permission was subsequently revoked on 21.9.2013 due to non-compliance with time-limited approval conditions on provision of boundary fence and submission/implementation of landscape, drainage and fire service installations (FSIs) proposals. Compared with the last application, the current application was submitted by the same applicant for a different use on a smaller site with different site layout and development parameters.
- 1.3 According to the applicant, the temporary storage of construction materials (mainly metal scaffoldings and small tools) is accommodated within a warehouse on the Site. No medium or heavy goods vehicles will enter the Site. Plans showing

the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.4 The major development parameters of the current application are summarised as follows:

Site Area	About 870 m ²
Total Floor Area (Non-domestic)	About 610 m ²
No. and Height of Structures	2 • one for warehouse (6m, 1 storey) • one for store room (3.5m, 1 storey)
No. of Parking and Loading/ Unloading Spaces	1 (for light goods vehicle) (7 m x 3.5 m)
Operation Hours	9:00 a.m. to 5:00 p.m., 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 plans received on 15.10.2020 (**Appendix I**)
- (b) Supplementary Information received on 21.10.2020 (**Appendix Ia**) providing revised plans
- (c) Further Information (FI) received on 17.11.2020 (**Appendix Ib**) clarifying the proposed operation
- (d) FI received on 25.11.2020 clarifying the proposed (**Appendix Ic**) operation
[(c) and (d) exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, Supplementary Information and the FI (**Appendices I to Ic**). They can be summarised as follows:

The application is submitted to regularise the development. The proposal with minimal traffic will not generate adverse traffic impact on public roads.

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 notice outside the Site and at the Shap Pat Heung Rural Committee. 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 Applications

- 5.1 The Site involves 3 previous approved applications (No. A/YL-TYST/561, 592 and 640) for temporary open storage of construction machinery and construction materials covering different extents of the Site. The applications were all approved with conditions each for a period of 3 years by the Committee between 2012 and 2013 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, all three planning permissions were revoked between 2012 and 2013 due to non-compliance with time-limited approval conditions. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Compared with the last application, the current application was submitted by the same applicant for a different use on a smaller site with different site layout and development parameters.

6. Similar Applications

- 6.1 A total of 82 similar applications for various temporary warehouse with or without open storage and/or ancillary uses within/straddling the “U” zone had been considered by the Committee since 2015. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Out of the 82 similar applications, 79 were 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, the planning permissions for 22 of them were revoked due to non-compliance with approval conditions.
- 6.3 The remaining three applications (No. A/YL-TYST/922, 926 and 943) were rejected by the Committee between 2018 and 2019, mainly on the grounds, amongst others, that 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 system.

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

- 7.1 The Site is:
- (a) accessible via a local track leading from Kung Um Road to its southeast (**Drawing A-1, Plans A-2 and A-3**); and
 - (b) paved and currently occupied by the applied use without valid planning permission (**Plan A-4**).
- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominately open storage/storage yards and warehouses intermixed with scattered residential structures, workshops, agricultural land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one to its immediate northeast; and
- (c) except for four warehouses and an open storage yard operating with valid planning permissions (No. A/YL-TYST/891, 917, 936, 966 and 1021), as well as two other warehouses in the vicinity of the Site, the remaining warehouses, open storage/storage yards and workshops in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the YLS Study), this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comment, 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 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(s) will need to apply to her office to permit the structures to be erected or to 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 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.

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 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.

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 was one substantiated environmental complaint concerning the Site received in 2018, which was related to malodour from a recycling operation at the Site. Investigation was conducted and no non-compliance under environmental pollution control ordinances, including Air Pollution Control Ordinance, was found. Hence, no enforcement action was taken.
- (b) Should the planning 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.

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 development from public drainage point of view.

- (b) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and implementation and maintenance of the drainage proposal 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 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 reminded of the detailed comments at **Appendix V**.

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 granted 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 should be reminded of the detailed comments at **Appendix V**.

Long-Term Development

9.1.8 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 YLS Study. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area partly zoned "District Open Space" ("DO") and partly shown as 'Road'.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due

consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

9.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) However, based on the preliminary project boundary of the proposed YLS Development, 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 the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 3 is being formulated.

District Officer's Comments

9.1.10 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.

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);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 23.10.2020, 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 objecting to the application on the ground that the proposal will attract additional traffic and undermine the safety and living quality of the local villagers (**Appendix IV**).

11. Planning Considerations and Assessments

11.1 The application is for temporary storage of construction materials 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 to cater for the continuing demand for open storage 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 partly zoned “DO” and partly shown as ‘Road’ on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the temporary use for 3 years. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.

- 11.2 The surrounding areas comprise predominantly warehouses and open storage/ storage yards (**Plan A-2**). While there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD and DEP. Adverse traffic, drainage and environmental impacts arising from the proposal are not envisaged. There was one substantiated environmental complaint concerning the Site received in 2018, which was related to malodour from a recycling operation at the Site. However, it was not related to the applied use and there is currently no such operation at the Site. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address local concerns and 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.
- 11.4 Given that 79 similar applications within/straddling the “U” zone have been approved since 2015, approval of the current application is generally in line with the Committee’s previous decisions. There were three similar applications in the subject “U” zone rejected mainly on the grounds, 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. However, such considerations are not entirely applicable to the current application as the previous revocations at the Site were related to open storage use, and the current proposal for storage use within a warehouse could be considered afresh.
- 11.5 There was one public comment received during the statutory publication period as summarised in paragraph 10 above. 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 comment mentioned in paragraph 10 above, the Planning Department considers that the temporary storage of construction materials 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 4.12.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/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 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 4.6.2021;
- (f) in relation to (e) 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 4.9.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 4.6.2021;
- (i) in relation to (h) 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 4.9.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) 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 any of the above planning conditions (e), (f), (h) or (i) 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 with plans received on 15.10.2020
Appendix Ia	Supplementary Information received on 21.10.2020
Appendix Ib	FI received on 17.11.2020
Appendix Ic	FI received on 25.11.2020
Appendix II	Previous Applications covering the Application Site
Appendix III	Similar Applications within/straddling the “U” zone on the OZP since 2015
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site 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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**