

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

APPLICATION NO. A/YL-TYST/916

- Applicant** : Mr. Tam Fung Lam represented by Goldrich Planners & Surveyors Ltd.
- Site** : Lots 1198 S.E (Part), 1223 RP (Part) and 1224 RP (Part) in D.D. 119 and Adjoining Government Land, Kung Um Road, Yuen Long, New Territories
- Site Area** : 453m² (about) (including about 24m² of Government land)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11 (at the time of submission)
- Approved Tong Yan San Tsuen OZP No. S/YL-TYST/12 (currently in force)
- Zoning** : “Undetermined” (“U”)
(No change to the “U” zone)
- Application** : Renewal of Planning Approval for Temporary “Storage of Advertisement Material with Ancillary Workshop” for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary storage of advertisement material with ancillary workshop at the application site (the Site) for a further period of 3 years (**Plan A-1a**). The Site is currently occupied for the applied use with valid planning permission under Application No. A/YL-TYST/754 until 9.10.2018 (**Plans A-2 and A-4**).
- 1.2 The Site was involved in five previous applications for open storage/workshop/warehouse uses. Except for the first application (No. A/YL-TYST/139) which was rejected by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board), the other four applications were approved with conditions for 1 to 3 years by the Committee. All the time-limited approval conditions under the last application (No. A/YL-TYST/754) has been complied with and the permission is valid up to

9.10.2018. Details of the previous application are at paragraph 6 below and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.

- 1.3 The Site is accessible from Kung Um Road to its southeast. According to the applicant, no open storage activities will be carried out on site. Two parking spaces will be provided in the open area. Ancillary workshop activity, i.e. cutting of glass, will only be carried out if necessary. Plans showing the site layout, the tree preservation plan, and the as-built drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 The major development parameters of the previously approved application and the current application are the same as follows:

Site Area	453m ² (including Government land of about 24m ²)
Total Floor Area (Non-domestic)	222.31 m ²
No. of Structures and Height of Structures	3 (for open shed for storage of advertisement material with ancillary workshop (1 storey, 4.8m), storeroom (1 storey, 2.6m) and toilet (1 storey, 2.3m) uses)
Parking Spaces	2 (1 for goods vehicle (11m x 3.5m) and 1 for private car (5m x 2.5m))
Operation Hours	8:00a.m. to 7:00p.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 received on 24.7.2018 **(Appendix I)**
- (b) Further Information received on 12.9.2018 providing response to the Transport Department's comments **(Appendix Ia)**
[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 detailed in the justification statement attached to **Appendix I** and Further Information at **Appendix Ia**. They can be summarized as follows:

- (a) The Site is subject to a planning approval granted under Application No. A/YL-TYST/754 for the same use as current application. As the planning permission would expire on 9.10.2018, the applicant seeks renewal of planning approval for a further period of 3 years to continue the current use on site.
- (b) The Site is zoned "U" on the OZP whereby all uses or developments require permission from the Board. 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 areas, which are considered suitable for open storage and port back-up uses.

- (c) The Site is subject to four previous planning approvals. All the approval conditions of the last application (No. A/YL-TYST/754) have been complied with. The development parameters of the current application are same as the last application.
- (d) The operation hours are between 8:00a.m. and 7:00p.m. from Mondays to Saturdays, excluding Sundays and public holidays. No open storage activities will be carried out on site and the open area is reserved for parking of vehicles. Light goods vehicles will mainly be used. Medium and/or heavy goods vehicles will occasionally be used for logistics. No container tractor/trailer will be allowed to park or enter/exit the Site. The ancillary workshop activity will involve cutting of glass only if necessary.
- (e) Landscaping and drainage facilities have been implemented on site to minimize possible adverse impacts on the surrounding areas.

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 through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is the subject of five previous applications (No. A/YL-TYST/139, 398, 460, 609 and 754). Details of the application are summarized in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-TYST/139 for temporary open storage of construction materials for a period of 2 years was rejected by the Committee on 15.6.2001 on the grounds that, among others, there was insufficient information to demonstrate no adverse environmental and drainage impacts.

- 6.3 Application No. A/YL-TYST/398 for temporary vehicle repair workshop and Applications No. A/YL-TYST/460, 609 and 754 for the same use as the current application (and subsequent applications for renewal) submitted by the same applicant were approved with conditions by the Committee on 9.10.2009, 5.10.2012 and 18.9.2015 respectively on similar considerations that the developments were not incompatible with the surrounding land uses; approval of the applied temporary uses would not frustrate the long-term use of the area; and the concerns of relevant government departments could be addressed by means of approval conditions. All the time-limited approval conditions imposed on the last application (No. A/YL-TYST/754) have been complied with and the planning permission is valid up to 9.10.2018.
- 6.4 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site, and the development parameters and site layout remain unchanged.

7. Similar Applications

- 7.1 A total of 95 similar applications for various types of temporary warehouse with/without open storage and/or ancillary site office/workshop 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 III** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 There are 94 approved applications for temporary warehouse with/without open storage and/or ancillary site office/workshop uses. However, amongst these approved applications, 34 were revoked due to non-compliance with approval conditions.
- 7.3 There is one application rejected mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent.
- 7.4 For Members’ information, Application No. A/YL-TYST/917 for temporary warehouse for storage of event supplies and equipment with ancillary site office for a period of 3 years within the same part of the “U” zone on the OZP will also be considered at this meeting (**Plan A-1a**).

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

- 8.1 The Site is:
- (a) accessible from Kung Um Road; and
 - (b) paved, fenced and currently occupied by the applied use with valid planning permission under Application No. A/YL-TYST/754.
- 8.2 The surrounding areas have the following characteristics:
- (a) intermixed with warehouses, open storage yards, a refuse collection point, scattered residential structures and vacant and unused land;

- (b) there are a number of residential structures in its vicinity with the nearest one located at about 30m to its southwest (**Plan A-2**); and
- (c) except for the warehouses which are operated with valid planning permissions under Applications No. A/YL-TYST/752, 801, 867, 889, 893 and 904, and a warehouse to its southeast which may be tolerated under the Town Planning Ordinance, other warehouses and open storage yards are suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “U” zone is to cater for the continuing demand for open storage, which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic 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 summarized 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 Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) No permission is given for occupation of GL (about 24 m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
- (c) Lot 1198 S.E in D.D. 119 is 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”.
- (d) The Site is accessible to Kung Um Road via GL. Her Office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL the Site.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.

- (f) Should planning approval be given to the application, the STW holder(s) will need to apply to her Office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her Office to permit the structures to be erected or regularize any irregularities on site. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. 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 container tractor/trailer should be allowed to park or enter/exit the Site.
- (b) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, vehicle 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) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located at about 30m southwest of the Site) (**Plan A-2**), and environmental nuisance is expected.

- (b) There was no environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant should also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

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

- (a) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those maintained under previous planning application No. A/YL-TYST/754.
- (b) In view of the above, he has no objection in principle to the applied development. Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities and the submission of 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. 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.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) 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 the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on application site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) For UBW erected on leased land, enforcement action may be taken by 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 application site under 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 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 Building (Planning) Regulation at the building plan submission stage.

Others

10.1.8 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) CEDD and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) - Investigation" (the Study). According to the Recommended

Outline Development Plan of YLS promulgated on 8.8.2017, the Site falls within an area zoned as “Local Open Space” (“LO”) and an area shown as ‘Road’.

- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

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

- (a) We have no objection to the captioned temporary use for 3 years, which should be considered in accordance with the provisions of the current OZP and existing infrastructure capacities.
- (b) However, the Site falls within the boundary of YLS Development. According to the Study, to ensure timely and orderly implementation, the development of YLS and relevant site formation and infrastructure works would be implemented in four stages. The lot(s) concerned falls within a site under Stage 3 Works. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the site in question will not be arranged before the first population intake of the YLS Development expected in 2027.

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 comments 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 31.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.8.2018, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The subject application is for renewal of the planning permission under previous Application No. A/YL-TYST/754 for temporary storage of advertisement material with ancillary workshop for a period of 3 years at a Site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone on the OZP which is generally intended to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises 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 as “LO” and an area shown as ‘Road’ 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 of 3 years would not jeopardize the long-term development of the area.
- 12.2 The subject “U” zone is mainly occupied by similar warehouses, open storage/storage yards and workshop uses, and similar uses are found in the vicinity of the Site (**Plan A-2**). As such, the development is not incompatible with the surrounding uses in the subject “U” zone.
- 12.3 The application is generally in line with TPB PG-No. 34B in that there has been no material change in planning circumstances since the granting of the previous approval under Application No. A/YL-TYST/754; all approval conditions imposed on the last application have been complied with; and the 3-year approval period sought is of the same timeframe as the previous approval.
- 12.4 There is no adverse comment on the application from concerned Government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site, with the nearest one located at about 30m southwest of the Site (**Plan A-2**), and environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. To address the concerns on the possible environmental nuisances generated by the temporary use and the technical concerns of other concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact and to keep the Site clean and tidy at all times.
- 12.5 Given that the Committee has approved one application (No. A/YL-TYST/398) for workshop use and three applications (No. A/YL-TYST/460, 609 and 754) for

the same use covering the same site and 94 other similar applications in the same part of the “U” zone, approval of the renewal application is also in line with the Committee’s previous decisions.

- 12.6 There is no public comment received on the application during the statutory publication period.

13. Planning Department’s Views

13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the temporary storage of advertisement material with ancillary workshop 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 further period of 3 years from 10.10.2018 to 9.10.2021. 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 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no storage at the open area of the Site, as proposed by the applicant, is allowed at any time during planning approval period;
- (d) no workshop activities, except ancillary glass cutting activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) no container tractor/trailer, as defined in the Road Traffic Ordinance, is allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) all existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 10.1.2019;
- (j) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the

satisfaction of the Director of Fire Services or of the Town Planning Board by 10.4.2019;

- (k) in relation to (j) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.7.2019;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) 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;
- (m) if any of the above planning conditions (i), (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; and
- (n) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[Approval conditions (a) to (c), (f) and (h) to (k) are the same as those under the permission for Application No. A/YL-TYST/754, while conditions (d), (e) and (g) are updated in accord with the departments' latest requirements.]

Advisory clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applicant fails to demonstrate that the proposed development would not generate adverse environmental impact on the surrounding areas.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I

Application Form received on 24.7.2018

Appendix Ia	Further Information received on 12.9.2018 providing response to the Transport Department's comments
Appendix II	Relevant extract of the Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)
Appendix III	Previous Applications Covering the Application Site
Appendix IV	Similar Applications in this Part of the "U" Zone on the Tong Yan San Tsuen OZP since the Promulgation of TPB PG-No. 13E
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Tree Preservation Plan
Drawing A-3	As-built Drainage 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
SEPTEMBER 2018**