

Previous Applications covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-TYST/736	Proposed Temporary Hydroponics Farm for a Period of 3 Years	7.8.2015 [revoked on 7.5.2016]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14)
2	A/YL-TYST/821	Proposed Temporary Plant Nursery and Shop and Services (Retail Shop for Plants) for a Period of 3 Years	13.1.2017 [revoked on 26.6.2017]	(1), (2), (3), (5), (6), (7), (10), (11), (12), (13), (14), (15), (16)

Approval Condition(s):

- (1) Reinstatement of the site to an amenity area upon expiry of the planning permission.
- (2) No operation between 9:00 p.m. to 7:00 a.m./ 7:00 p.m. to 7:00 a.m is allowed on the site.
- (3) No medium and 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.
- (4) No structures within 10m from the existing bamboos and trees of the egretty at the southwestern corner of the site are allowed to be erected.
- (5) The existing bamboos and trees at the southwestern corner of the site shall be preserved at all times.
- (6) No works, including site formation, land excavation, and construction of the proposed rainproof and shading sheds, are allowed on the site at any time within the breeding season of ardeids from March to August inclusive in order to protect the egretty nearby.
- (7) No vehicle is allowed to queue back to public road or reverse onto/from the public road.
- (8) The existing natural stream at the site shall be maintained at all times.
- (9) No synthetic insecticides is allowed in the operation of the hydroponics farm at any time.
- (10) Submission and implementation of drainage proposal.
- (11) Maintenance of the implemented drainage facilities at all times.
- (12) Submission and implementation of tree preservation and landscape proposal.
- (13) Submission and implementation of fire service installations proposal.
- (14) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period.
- (15) No workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period.
- (16) Provision of boundary fencing.

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TYST/28#	Proposed temporary open storage of construction materials for a period of 12 months	24.7.1998 (on review)	(1), (2), (3), (4), (5)

straddling the "R(C)" zone portion of the application site.

Rejection Reason(s):

- (1) Incompatible with the surrounding areas.
- (2) The proposed development would encircle a number of existing domestic structures which would be adversely affected by the noise generated by the proposed development. Access to these structures would also be denied by the development.
- (3) There is no information in the submission to demonstrate that the vehicular access arrangement between Kung Um Road and the site is satisfactory.
- (4) Insufficient information in the submission to demonstrate that the development would not generate adverse environmental/drainage impacts on the surrounding areas.
- (5) Approval of the application would set an undesirable precedent for other similar applications, the cumulative effect of which would further degrade the environment of the area.

Similar Applications within the Subject “R(C)” zone

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-TYST/577	Proposed Temporary Eating Place and Shop (Grocery Store) for a Period of 3 Years	16.3.2012 [revoked on 16.3.2013]	(1), (2), (3), (4), (5), (6), (7)
2	A/YL-TYST/620	Proposed Temporary Eating Place and Shop (Grocery Store) for a Period of 3 Years	23.11.2016 [revoked on 23.12.2014]	(1), (2), (3), (4), (5), (6), (7)
3	A/YL-TYST/714	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	6.2.2015 [revoked on 6.11.2016]	(1), (2), (3), (4), (5), (6), (7), (10)
4	A/YL-TYST/737	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	3.7.2015	(1), (2), (3), (4), (5), (6), (7), (10), (12)
5	A/YL-TYST/738	Proposed Temporary Eating Place and Shop (Grocery Store) for a Period of 3 Years	3.7.2015 [revoked on 3.4.2016]	(1), (2), (3), (4), (5), (6), (7), (10), (12)
6	A/YL-TYST/760	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	23.10.2015 [revoked on 23.7.2016]	(1), (2), (3), (4), (5), (6), (7), (10), (12)
7	A/YL-TYST/774	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	8.1.2016 [revoked on 8.7.2016]	(1), (3), (4), (5), (6), (7), (10), (12), (13)
8	A/YL-TYST/805	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	14.9.2016 [revoked on 14.3.2017]	(1), (3), (4), (5), (6), (7), (10), (12), (13)
9	A/YL-TYST/873	Proposed Temporary Shop (Grocery Store) for a Period of 3 Years	18.5.2018	(3), (4), (5), (6), (7), (10), (12), (13), (14)
10	A/YL-TYST/894	Renewal of Planning Approval for Temporary “Shop (Grocery Store)” for a Period of 3 Years	1.6.2018	(3), (4), (5), (6), (7), (10), (12), (13), (14)

Approval Condition(s):

- (1) Submission and/or implementation of (accepted) landscape and/or tree preservation proposal.
- (2) Submission of (revised) drainage proposal and implementation/provision of drainage facilities/proposal.
- (3) Submission and/or implementation/provision of emergency vehicular access, water supply for firefighting and/or fire service installations proposal.

- (4) Revocation of planning approval if conditions not complied with by a given date/at any time during the approval period.
- (5) Reinstatement of the site to an amenity area upon expiry of planning permission.
- (6) No night-time operation.
- (7) No light, medium or heavy goods vehicles, including container tractor/trailer, is allowed to park/store on or enter/exit the site.
- (8) No open storage activity is allowed on the site.
- (9) No vehicle is allowed to park/store on or enter/exit the site.
- (10) No vehicle is allowed to queue back to or reverse onto/from public road.
- (11) Provision of boundary fencing on the site.
- (12) The implemented/existing drainage facilities shall be maintained.
- (13) Submission of records of the existing drainage facilities on the site.
- (14) Existing Trees and landscape planning on the Site shall be maintained.

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TYST/914	Proposed Temporary Eating Place and Shop and Services (Grocery Store) for a Period of 3 Years	21.9.2018	(1), (2)

Rejection Reason(s):

- (1) The applicant fails to demonstrate that the proposed development would not cause adverse drainage impacts on the surrounding areas.
- (2) Previous planning permission for the same proposed use granted under application No. A/YL-TYST/738 was revoked due to non-compliance with approval conditions. Approval of the application would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

Detailed Comments of the Chief Engineer/Mainland North, Drainage Services Department

He has the following comments on the submitted drainage proposal (**Drawing A-4**):

- (i) As there is a natural stream within the Site, please indicate in the drainage proposal the location of the natural stream and supplement how it would not be affected by the proposed development.
- (ii) The invert levels of the proposed catchpits should be shown on the drainage plan for reference.
- (iii) The existing drainage facilities, to which the stormwater of the development from the Site would discharge, should be indicated on plan. The relevant connection details should be provided for comment.
- (iv) The existing drainage facilities, to which the stormwater of the development from the Site would discharge, are not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owner prior to commencement of the proposed works. In the case that it is a local village drain, District Officer (Yuen Long) should be consulted.
- (v) The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development.
- (vi) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
- (vii) The applicant should consult District Lands Officer/Yuen Long and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.

Advisory clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) shorter compliance period is imposed in order to monitor the progress of compliance with approval conditions. Should the applicant fail to comply with any of the approval conditions again resulting in the revocation of planning permission, sympathetic consideration may not be given to any further applications;
- (c) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site consists of Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government. Lot 1323 in D.D 119 is covered by Short Term Waiver (STW) No. 4196 to permit structures erected thereon for the purpose of “Temporary Open Storage of Construction Machinery and Materials Recycling Materials and Used Electrical Appliances with Ancillary Workshop Activities”. The Site is accessible from Kung Um Road via government land (GL), private land and STT 2863 immediately adjoining Lot 1323 in D.D. 119. Her office does not provide maintenance work for GL/STT involved and does not guarantee any right-of-way over the GL/STT to the Site. 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 proposed 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. 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;
- (d) to note the comments of the Commissioner for Transport that the land status of the access road/path/track leading to the Site at Kung Um Road shall be checked with the lands authority. The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly. 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;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains. His Department does not and will not maintain any access connecting the Site and Kung Um Road;
- (f) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that the applicant should be reminded that all wild birds, including their nests and eggs, are protected under the Wild Animals Protection Ordinance (Cap. 170). Furthermore, the applicant should be reminded to minimize any artificial lighting at the Site during night time and do not direct any lighting at the bamboo clumps of the egret especially the breeding season of the

ardeids.

- (g) 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 Sites” issued by the Environmental Protection Department;
- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that the Applicant is reminded to approach relevant authority/ government department(s) direct to obtain the necessary approval on tree works such as felling, transplanting or pruning under lease. The Applicant is reminded of the importance of undertaking proper tree care for the existing tree. Useful information published by the Greening, Landscape & Tree Management Section; Development Bureau on general tree maintenance and tree risk management is available for reference in the following links: 護養樹木的簡易圖解
(http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf), 樹木管理手冊
(https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html), 樹木風險評估及管理安排 (https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html), 護養樹木 保障安全
(http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf), 減低樹木風險的樹木護養簡易圖解
([http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf));
- (i) to note the comments of the Director of Drainage Services on the submitted drainage proposal (**Drawing A-4** of this RNTPC Paper) that as there is a natural stream within the Site, the applicant should indicate in the drainage proposal the location of the natural stream and supplement how it would not be affected by the proposed development. The invert levels of the proposed catchpits should be shown on the drainage plan for reference. The existing drainage facilities, to which the stormwater of the development from the Site would discharge, should be indicated on plan. The relevant connection details should be provided for comment. The existing drainage facilities, to which the stormwater of the development from the Site would discharge, are not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owner prior to commencement of the proposed works. In the case that it is a local village drain, District Officer (Yuen Long) should be consulted. The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development. The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc. The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works;
- (j) to note the Director of Fire Services’ comments that in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of where the proposed FSIs to be installed should also be clearly marked on the layout plans. Regarding the submitted FSIs proposals (**Drawing A-5** of this RNTPC Paper), it should be noted that FSIs shall be provided in accordance with paragraph 4.14 (Commercial buildings - low rise) of the current Code of Practice for Minimum Fire Service Installations and Equipment. FSIs provisions should be provided in the form of FS

notes and clearly indicated on the layout plans. The applicant is also reminded that if the proposed structure(s) is required to comply with Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;

- (k) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that 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 Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with BO. 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 BO. 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. 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; and
- (l) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The parties concerned should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.