

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/928

<u>Applicant</u>	: Bestco (H.K.) Limited represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 784 S.A, S.B & S.C (Part) and 785 (Part) in D.D.119, Pak Sha Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 667m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tong Yan San Tsuen Outline Zoning Plan No. S/YL-TYST/12
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Temporary Warehouse for 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 warehouse for storage of construction materials for a period of 3 years. The Site falls within an area zoned “Undetermined” (“U”) on the OZP. According to the Notes of the OZP for “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is currently occupied for the applied use with valid planning permission up to 4.12.2018 (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in one previous application (No. A/YL-TYST/765) for temporary warehouse for storage of construction materials, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 4.12.2015 (**Plan A-1**). All the time-limited approval conditions under the last application has been complied with and the validity of planning permission was up to 4.12.2018. Details of the previous application are at paragraph 5 and **Appendix II**. Compared with the last application, the current application is submitted by the same applicant for the same warehouse use with same site layout on the same site with almost the same development parameters (with a larger loading/unloading space for light goods vehicles).

1.3 The Site is accessible via a local track leading from Kung Um Road to its east (**Drawing A-1, Plans A-2 and A-3**). According to the applicant, the applied use is for storage of construction materials such as sanitary ware and tiles. No open storage, repairing, dismantling, cleaning or other workshop activities will be carried out on the Site. In addition, there will be no handling of hazardous electrical/electronic appliances or components, including cathode-ray tubes (CRT), CRT computer monitors/television sets or CRT equipment, at the Site. Besides, no medium and heavy goods vehicles exceeding 5.5 tonnes, including container trailer/tractor, would be allowed to enter the Site. Plans showing the vehicular access leading to the Site, the site layout, the landscape & tree preservation plan and the as-built drainage plan submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.4 The major development parameters of the previously approved application and the current application are summarized as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/765 (a)	Current Application No. A/YL-TYST/928 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years		---
Site Area	667 m ²		---
Total Floor Area (Non-domestic)	330 m ²		---
No. and Height of Structures	2 both for storage of construction materials (not exceeding 10 m, 1 storey)		---
Loading/Unloading Space	1 for light goods vehicle (5 m x 2.5 m)	1 for light goods vehicle (7 m x 3.5 m)	Larger loading/unloading space (+ 12 m ²)
Operation Hours	7:00 a.m. to 7:00 p.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 12.10.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 3 of Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) The current application is the same as the last planning permission in terms of use and site area except that a loading/unloading of 7 m x 3.5 m (instead of 5 m x 2.5 m) is proposed. As the planning permission would expire on 4.12.2018, the applicant seeks a fresh application for a period of 3 years to continue the current use on site. The applicant has complied with all the planning conditions imposed to the last planning permission, which shows his sincere and law-abiding attitude and he should be rewarded with a 3-year planning permission.
- (b) With reference 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 is considered suitable for open storage and port back-up uses. Preliminary technical assessments on traffic, drainage, visual and environmental aspects are provided in the submission to demonstrate that the development would not generate adverse impacts on the surrounding areas. The proposed development would not generate queueing of traffic outside the ingress/egress and along the routing leading to the Site. No excessive or on-going operative noise will be emitted from the proposed development. It is considered that the development has fulfilled the guidelines to a large extent and should be given favourable consideration by the Board.
- (c) The development is in line with the planning intention of the “U” zone which is to cater for the continuing demand for open storage uses which cannot be accommodated in conventional godown premises. The proposed development is temporary in nature and would not jeopardise the long term planning intention of the area. Also, there is a shortage of land for open storage use in Tong Yan San Tsuen because the “Open Storage” zone is already fully occupied.
- (d) The “U” zone where the Site falls within is currently mainly filled with open storage uses and warehouse, and most of the applications were previously approved by the Board. The proposed development is compatible with the surrounding environment.
- (e) Similar temporary developments in close vicinity of the Site were granted with planning approval by the Board, including planning permissions No. A/YL-TYST/773, 843, 856, 876, 909 and 910. The applied use is very similar to the approved uses in terms of nature and planning circumstances except that it is smaller in scale. As such, the Board’s earlier decisions reflect that the applied use may be tolerated provided that adequate mitigation measures are proposed to minimize degradation of the surrounding environment.
- (f) There will be insignificant traffic, environmental and drainage impacts. The negligible increase in traffic would not aggravate the traffic condition of Kung Um Road and nearby road network. No frequent traffic or generation of noise due to loading/unloading of goods and associated traffic is anticipated. Also, no medium and heavy goods vehicles exceeding 5.5 tonnes, including container trailer/tractor, will access the site. No open storage, cleaning, repairing, dismantling or other workshop activities will incur within the Site and the applicant would follow the ‘Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites’ where applicable. Drainage proposal (**Drawing A-4**) is provided in the submission to demonstrate that the Site would not generate adverse drainage impacts. The existing drainage facilities at

the Site are still effective to drain surface runoff. All the proposed drainage facilities would be provided and maintained by the applicant at his own expense.

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 Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The use in the Site is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

5. Previous Application

- 5.1 The Site was involved in one previous application (No. A/YL-TYST/765) for temporary warehouse for storage of construction materials for a period of 3 years. Details of the application are summarised in **Appendix II** and the boundary of the Site is shown on **Plan A-1**.
- 5.2 The last application, submitted by the same applicant, was approved with conditions by the Committee on 4.12.2015 on the considerations that the applied use is not in conflict with the planning intention of the “U” zone; the development is not incompatible with the surrounding land uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. All the approved conditions imposed on the previous application had been complied with and the validity of planning permission was up to 4.12.2018.
- 5.3 Compared with the previous application, the current application is submitted by the same applicant for the same warehouse use with the same site layout on the same site with almost the same development parameters (with a larger loading/unloading space for light goods vehicles).

6. Similar Applications

- 6.1 A total of 98 similar applications for various types of temporary warehouse with/without open storage and/or ancillary workshop/ site office uses in this part of the “U” zone had been considered by the Committee since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 There are 96 approved applications for various types of temporary warehouse with/without open storage and/or ancillary workshop/ site office uses. They are 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, amongst these approved applications, 34 were revoked due to non-compliance with approval conditions.

- 6.3 There are two applications (No. A/YL-TYST/478 and 922) rejected by the Board on review/the Committee on 22.10.2010 and 2.11.2018 respectively, mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent.
- 6.4 For Members' information, Applications No. A/YL-TYST/926 and 927 for temporary warehouse for storage of construction material and/or furniture for a period of 3 years to the southeast and southwest of the Site within the same part of the "U" zone on the OZP will also be considered at this meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east;
- (b) paved and partly fenced off; and
- (c) currently occupied for the applied use with valid planning permission up to 4.12.2018.

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

- (a) the area comprises predominantly warehouses intermixed with open storage/ storage yards, warehouses, parking of vehicles, workshops, scattered residential structures, unused land and some vacant structures;
- (b) there are scattered residential structures in its vicinity with the nearest one located about 40m to the southeast across a local track;
- (c) there are 5 warehouses to the further north, east and southeast of the Site which are operated with valid planning permission under applications No. A/YL-TYST/773, 796, 797, 843 and 876; and
- (d) the other warehouses, open storage/ storage yards, parking of vehicles and workshops in the vicinity are suspected unauthorised developments subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the "U" zone is to cater for the continuing demand for open storage, which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development. The area is therefore zoned "U" pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots 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) Lots No. 784 S.A, S.B & S.C and 785 in D.D. 119 is covered by Short Term Waiver (STW) No. 4854 and 4872 respectively to permit structures erected thereon for the purpose of temporary warehouse for storage of construction materials.
- (c) The Site is accessible from Kung Um Road via government land (GL) and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within the Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate. 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 as 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 premium or fee, as may be imposed by her department.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailers, should be allowed to park or enter/exit the Site.
- (b) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.

- (c) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (d) 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) 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.

Natural Conservation and Agriculture

9.1.4 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) As the Site is paved and disturbed, he has no comment on the application from nature conservation point of view.
- (b) Nevertheless, should the application be approved, the applicant should be advised to adopt appropriate measures to avoid causing pollution or disturbance to the watercourse along the eastern boundary of the Site.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) Should the planning application be approved, the applicant should 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

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

- (a) Based on the drainage proposal enclosed in the application (**Drawing A-4**), apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/765.
- (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 condition record 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

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (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

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

- (a) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of his department 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 the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's

enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

- (c) 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.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

9.1.9 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 (RODP) of YLS promulgated on 8.8.2017, the Site falls within areas zoned as “Amenity” (“A”) and “Residential (Subsidised Sale Flats with Commercial)” (“R2(SSF)c”).
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

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

- (a) He has no objection to the application.
- (b) However, the Site falls within the boundary of the proposed YLS Development which would provide land to meet the medium to long term housing needs of Hong Kong. While the detailed implementation programme with phasing and packaging of works for YLS Development is being formulated, the YLS Development project is now expected to be completed by 2038.

District Officer's Comments

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

His office has not received any comment from the locals on the application.

9.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 19.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.11.2018, no public comment was received from members of the public.

11. Planning Considerations and Assessments

11.1 The subject application is for temporary warehouse for storage of construction materials at the 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 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. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area. Whilst the Site falls within the areas zoned "A" and "R2(SSF)c" on the RODP of YLS promulgated on 8.8.2017, CE/CID of PlanD does not raise objection to the application and PM(W) of 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.

11.2 The subject "U" zone is mainly occupied by warehouses intermixed with open storage/storage yards, parking of vehicles 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.

11.3 There is no adverse comment on the application from concerned government departments and there has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. 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 minimise any potential environmental impact.

- 11.4 Given that a previous approval for the same applied use has been granted to the Site and 96 similar applications have been approved in this part of the “U” zone, approval of the current application is in line with the Committee’s previous decisions.
- 11.5 There is no public comment received on the application during statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary warehouse for 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 7.12.2021. 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 7:00 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 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 open storage activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (e) no storage or handling (including loading and unloading) of electrical appliances, computer/ electronic parts (including cathode-ray tubes) or any other types of electronic waste, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (f) 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;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (h) all existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (i) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (j) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 7.3.2019;
- (k) 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 7.6.2019;
- (l) in relation to (k) 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 7.9.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) 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
- (n) if any of the above planning conditions (j), (k) or (l) 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 IV**.

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

13. Decision Sought

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

14. Attachments

Appendix I	Application Form received on 12.10.2018
Appendix Ia	Supplementary Planning Statement
Appendix II	Previous Application covering the Site
Appendix III	Similar Applications in this Part of the "U" Zone on the OZP since the Promulgation of TPB PG-No. 13E
Appendix IV	Recommended Advisory Clauses

Drawing A-1	Plan showing the vehicular access leading to the Site
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape & Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2018**