

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

**APPLICATION NO. A/YL-TYST/992**

|                           |   |
|---------------------------|---|
| <b><u>Applicant</u></b>   | : Ms. LEUNG Lai Chun represented by Metro Planning and Development Company Limited  |
| <b><u>Site</u></b>        | : Lots 1149 S.A (Part) and 1149 RP (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories  |
| <b><u>Site Area</u></b>   | : 200 m <sup>2</sup> (about)  |
| <b><u>Lease</u></b>       | : Block Government Lease (demised for agricultural use)   |
| <b><u>Plan</u></b>        | : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12  |
| <b><u>Zoning</u></b>      | : “Undetermined” (“U”)  |
| <b><u>Application</u></b> | : Renewal of Planning Approval for Temporary Warehouse for Storage of Vehicles and Spare Parts with Ancillary Site Office for a Period of 3 Years |

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval for temporary warehouse for storage of vehicles and spare parts with ancillary site office for a further period of 3 years at the application site (the Site) (**Plan A-1**). 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 by the applied use with valid planning permission under application No. A/YL-TYST/816 up to 9.12.2019 (**Plans A-2 and A-4**).
- 1.2 The Site was involved in three previous approved applications (No. A/YL-TYST/584, 648 and 816) for temporary warehouse for storage of vehicles with or without spare parts and ancillary site office (**Plan A-1**). The last application (No. A/YL-TYST/816) for the same applied use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 9.12.2016. All the time-limited approval conditions of the last application have been complied with and the approval is valid until 9.12.2019. Details of the previous applications are summarised in paragraph 6 below and **Appendix III**. Compared with the last

application, the current application is submitted by the same applicant for the same use with the same development parameters and site layout on the same site.

- 1.3 According to the applicant, the enclosed warehouse is mainly for prolonged storage of cars and related spare parts. The stored spare parts will only be used for maintenance works to be undertaken at vehicle repair workshop offsite. No maintenance, dismantling, repairing, paint-spraying, cleansing and other workshop activities will be carried out at the Site. The applicant also undertakes that all existing drainage facilities will be maintained at her own expense. Furthermore, no light, medium and heavy goods vehicles, including container tractor/trailer, are allowed to access or to be parked/stored at the Site. Plans showing the vehicular access leading to the Site, site layout, fire service installations (FSIs) proposal, landscape proposal and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the current application are the same as the last application (No. A/YL-TYST/816) and are summarised as follows:

| <b>Major Development Parameters</b> | <b>Previous Approved Application<br/>No. A/YL-TYST/816</b>   | <b>Current Application<br/>No. A/YL-TYST/992</b> |
|-------------------------------------|--|--|
| Applied Use                         | Temporary Warehouse for Storage of Vehicles and Spare Parts with Ancillary Site Office for a Period of 3 Years |  |
| Site Area                           | 200 m <sup>2</sup> (about)   |  |
| Total Floor Area (Non-domestic)     | 224 m <sup>2</sup> (about)   |  |
| No. and Height of Structure         | 1<br>• for warehouse with site office (6m, 2 storeys)  |  |
| No. of Parking Space                | Nil  |  |
| No. of Loading/Unloading Space      | Nil  |  |
| Operation Hours                     | 9:00 a.m. to 9:00 p.m. 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 8.10.2019 **(Appendix I)**
  - (b) Supplementary Planning Statement **(Appendix Ia)**
  - (c) Further Information (FI) dated 19.11.2019 clarifying that the site layout and applied use are the same as those of the last application and providing a FSIs proposal with a FS 251 certificate **(Appendix Ib)**  
*[accepted and exempted from publication and recounting requirements]*

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

The justifications put forth by the applicant in support of the application are mainly detailed in Part 3 of the Supplementary Planning Statement and the FI at **Appendices Ia** and **Ib** respectively. They can be summarised as follows:

- (a) The Site was the subject of previous planning permissions. All planning conditions imposed to the last application (No. A/YL-TYST/816) have been complied with.
- (b) 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 and is considered suitable for open storage and port back-up uses. The proposed development would not generate queuing of traffic outside the Site.
- (c) The proposed development is in line with the planning intention of the “U” zone. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site. Therefore, the development is compatible with the surrounding environment. Besides, there is a shortage of land for open storage purpose in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental, visual and drainage impacts arising from the proposal. The applicant undertakes to follow the environmental mitigation measures in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice), where applicable.

## **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 at the Site and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Town Planning Board Guidelines**

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

## **5. Background**

The Site is currently not subject to planning enforcement action.

## **6. Previous Applications**

- 6.1 The Site was involved in three previous approved applications (No. A/YL-TYST/584, 648 and 816) for temporary warehouse for storage of vehicles with or without spare parts and ancillary site office covering the same Site. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TYST/584 for temporary warehouse for storage of vehicle parts with ancillary site office and application No. A/YL-TYST/684 for the same use as the current application were both approved with conditions each for a period of 3 years by the Committee on 4.5.2012 and 25.10.2013 respectively, mainly on the considerations that the proposal was generally in line with the planning intention of the “U” zone; the development was generally not incompatible with the surrounding areas; and departmental concerns could be addressed by imposing approval conditions. However, both applications were revoked on 14.5.2013 and 22.11.2016 respectively due to non-compliance with approval conditions.
- 6.3 The last application (No. A/YL-TYST/816) for the same applied use as the current application was approved by the Committee on 9.12.2016 mainly on similar considerations as those stated in paragraph 6.2 above as well as the consideration that similar applications had been approved in the area. All the time-limited approval conditions under the last application have been complied with and the permission is valid up to 9.12.2019.
- 6.4 Compared with the last application, the current application is submitted by the same applicant for the same use with the same development parameters and site layout on the same site.

## **7. Similar Applications**

- 7.1 A total of 113 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 IV** and the locations of the sites are shown on **Plan A-1**.
- 7.2 Out of the 113 similar applications, 109 of which 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, amongst these approved applications, 41 were revoked due to non-compliance with approval conditions.
- 7.3 The remaining four applications (No. A/YL-TYST/478, 922, 926 and 943) were either rejected by the Board on review or by the Committee on 22.10.2010, 2.11.2018, 7.12.2018 and 1.2.2019 respectively, mainly on the grounds, amongst others, that approval of 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.

- 7.4 For Members' information, application No. A/YL-TYST/991 for temporary warehouse for storage of electronic goods within the same "U" zone on the OZP will also be considered at this meeting (**Plan A-1**).

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

8.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east (**Drawing A-1, Plans A-2 and A-3**); and
- (b) currently fully occupied by the applied use with valid planning permission under application No. A/YL-TYST/816 up to 9.12.2019.

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

- (a) comprise predominately warehouses and open storage/storage yards intermixed with scattered residential structures, workshops, a residential care home for the elderly (RCHE), an orchard, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity with the nearest one located to its immediate north (**Plan A-2**);
- (c) four warehouses located to the northwest, further northwest, further northeast and further southwest of the Site are operating with valid planning permissions under applications No. A/YL-TYST/917, 891, 966 and 971 respectively; and
- (d) except for a RCHE to the east of the Site, as well as the aforementioned operations operating with valid planning permissions, the other warehouses, open storage/storage yards and workshops in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

## **9. Planning Intention**

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

## **10. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) The Site comprises 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) Within the Site, Lots 1149 S.A and 1149 RP in D.D. 119 are covered by Short Term Waivers (STW) No. 4039 and 4040 respectively to permit structures erected thereon for the purpose of “Temporary Warehouse for Storage of Vehicles and Spare Parts with Ancillary Site Office”.
- (c) The Site is accessible from Kung Um Road via government land (GL) and private land. Her office does not provide maintenance works for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within 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 regularisation 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 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) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be

provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

### **Environment**

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

- (a) 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 to minimise any potential environmental nuisances.
- (b) There was no environmental complaint concerning the Site received in the past 3 years.

### **Drainage**

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

- (a) He has no objection in principle to the development.
- (b) Based on the drainage proposal enclosed in the application (**Drawing A-4** and **Appendix Ia**), apparently the applicant would maintain the same drainage facilities as those maintained under previous planning application No. A/YL-TYST/816.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/816 and submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

### **Fire Safety**

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

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

**Building Matters**

10.1.8 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 and 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 unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
  - (ii) 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.
  - (iii) 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 BD should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
  - (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 (B(P)R) 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 B(P)R at the building plan submission stage.

**Others**

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

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site falls within an area zoned as “Other Specified Uses” (“OU”) annotated “Hillside River Corridor with Scenic Cycle Track”.
- (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.

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

- (a) He has no objection to the subject application.
- (b) The Site falls within the project 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 its detailed implementation programme with phasing and packaging of works for YLS Development is being formulated.

**District Officer’s Comments**

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

Her office has not received any comment from the village representatives in the vicinity regarding the application.

10.2 The following government departments have no comments on the application:

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

## **11. Public Comment Received During the Statutory Publication Period**

On 15.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.11.2019, 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/816 for temporary warehouse for storage of vehicles and spare parts with ancillary site office for a period of 3 years at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone which is generally intended for open storage use but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. While the Site falls within an area zoned as “OU” annotated “Hillside River Corridor with Scenic Cycle Track” 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 three years would not jeopardise the long-term development of the area.
- 12.2 The surrounding areas comprise mainly warehouses and open storage/storage yards (**Plan A-2**). Although there are residential structures nearby, with the nearest one situated to its immediate north, the development is generally not incompatible with the surrounding uses in the subject “U” zone.
- 12.3 The application is generally in line with TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TYST/816; the approval conditions have been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD and DEP. No environmental complaint concerning the Site had been received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding area.
- 12.5 Given that three previous approvals for the same warehouse use have been granted to the Site and 109 similar applications have been approved in this part of the “U” zone since the promulgation of TPB PG-No. 13E, approval of the current application is in line with the Committee’s previous decisions. There were four similar applications in this part of the “U” zone rejected mainly on the grounds, amongst others, that approval of the application with repeated non-

compliances with approval conditions 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 applicable to the current application as all the approval conditions of the last application had been complied with.

- 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 above, the Planning Department considers that the temporary warehouse for storage of vehicles and spare parts with ancillary site office 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 9.12.2019 to 8.12.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation between 9:00 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 repairing, dismantling, paint-spraying, cleansing, maintenance or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no light, medium or heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 9.3.2020;
- (h) the existing fire service installations implemented on the Site should be maintained in efficient working order at all times during the planning approval period;

- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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; and
- (j) if the above planning condition (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

[Approval conditions (a), (b), (c), (d), (e) and (f) are the same as those under the permission for application No. A/YL-TYST/816, conditions (g) and (h) are updated and the reinstatement clause is deleted to accord with the departments' latest requirements.]

Advisory clauses

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

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

**14. Decision Sought**

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

**15. Attachments**

|                     |   |
|---------------------|---|
| <b>Appendix I</b>   | Application Form received on 8.10.2019  |
| <b>Appendix Ia</b>  | Supplementary Planning Statement  |
| <b>Appendix Ib</b>  | FI dated 19.11.2019 clarifying that the site layout and applied use are the same as those of the last application and providing a FSIs proposal with a FS 251 certificate                               |
| <b>Appendix II</b>  | 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. 34C) |
| <b>Appendix III</b> | Previous applications covering the Site   |

|                    |   |
|--------------------|---|
| <b>Appendix IV</b> | Similar Applications in this Part of the “U” Zone on the OZP since the Promulgation of TPB PG-No. 13E |
| <b>Appendix V</b>  | Recommended Advisory Clauses  |
| <b>Drawing A-1</b> | Vehicular Access Plan   |
| <b>Drawing A-2</b> | Site Layout Plan  |
| <b>Drawing A-3</b> | FSIs Proposal   |
| <b>Drawing A-4</b> | Landscape Proposal  |
| <b>Drawing A-5</b> | As-built Drainage Plan  |
| <b>Plan A-1</b>    | Location Plan with Previous and Similar Applications  |
| <b>Plan A-2</b>    | Site Plan   |
| <b>Plan A-3</b>    | Aerial Photo  |
| <b>Plan A-4</b>    | Site Photos   |

**PLANNING DEPARTMENT  
NOVEMBER 2019**