

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1051

- Applicant** : Waystart Investments Limited represented by Mr. WONG Sun Wo, William
- Site** : Lots 736 S.C and 737 RP in D.D. 121, Yuen Long, New Territories
- Site Area** : 2,296 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Residential (Group D)” (“R(D)”) (about 51.4%)
[Restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
“Green Belt” (“GB”) (about 48.6%)
- Application** : Temporary Warehouse 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 a period of 3 years (**Plan A-1**). Although the applied use is neither a Column 1 or 2 use in the “R(D)” and “GB” zones, the covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of three years within the zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently occupied by a single-storey warehouse without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposal is for redevelopment of the single-storey warehouse currently at the Site. The redeveloped 2-storey warehouse will be used for storage of noodles on the lower floor, while promotion/decoration materials, recycled paper boxes and packed products will be stored on the upper floor. No workshop activities will be carried out within the Site and no heavy goods vehicles will enter/park at the Site. Plan showing the site layout submitted by the applicant is at **Drawing A-1**.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	About 2,296 m ²
Total Floor Area (Non-domestic)	4,320 m ²
No. and Height of Structure	1 for warehouse (12m, 2 storeys)
No. of Parking Space	Nil
No. of Loading/ Unloading Spaces	2 (for medium goods vehicles)
Operation Hours	7:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with plan received on 14.9.2020 **(Appendix I)**
- (b) Supplementary Information received on 16.9.2020 providing a replacement page of the Application Form **(Appendix Ia)**
- (c) Further Information (FI) received on 29.9.2020 providing traffic generation data **(Appendix Ib)**
- (d) FI received on 14.10.2020 clarifying the proposed operation **(Appendix Ic)**
[(c) and (d) exempted from publication and recounting requirements]

2. Justifications from the Applicant

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

The applicant has operated a warehouse at the Site for more than three decades. As the stored items are mainly Chinese noodles, the warehouse needs to be waterproof. However, the current water seepage problem could not be fixed and a full redevelopment of the warehouse is needed.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Development within the “GB” Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to this application. The relevant assessment criteria are summarised as follows and extracted at **Appendix II**:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone. In general, the Board will only be prepared to approve applications for

development in the context of requests to rezone to an appropriate use;

- (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) the design and layout of any proposed development should be compatible with the surrounding area; and
- (d) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

5. Background

Majority of the Site is currently not subject to planning enforcement action. However, a very minor portion of the south-western part of the Site is subject to an enforcement action against unauthorised development (UD) involving storage use (**Plan A-2**). Enforcement Notice (EN) No. E/YL-TYST/848 and Compliance Notice for the EN were issued on 18.12.2019 and 20.5.2020 respectively. Reinstatement Notice was issued on 9.6.2020 and Chief Town Planner/Central Enforcement & Prosecution, Planning Department (CTP/CEP, PlanD) is currently monitoring the reinstatement status.

6. Previous Application

There is no previous planning application covering the Site.

7. Similar Applications

There are six similar applications (No. A/YL-TYST/18, 155, 462, 670, 958 and 959) for various temporary warehouse with or without open storage and/or ancillary uses within/straddling the subject “R(D)” and “GB” zones, which were all rejected by the Board on review or the Rural and New Town Planning Committee (the Committee) of the Board between 1998 and 2019 mainly on the grounds, amongst others, that the proposals were not in line with both the planning intentions of the “R(D)” and/or “GB” zones and TPB PG-No.10 (the latter for A/YL-TYST/958 and 959 only); there were potential adverse environmental/drainage/traffic/landscape impacts; and approval of the applications would set an undesirable precedent. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible from Long Hon Road via a local track to its northwest (**Plan A-3** and **Drawing A-1**); and
- (b) currently occupied by a single-storey warehouse without valid planning permission.

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) rural in character with mainly open storage/storage yards intermixed with scattered residential structures, parking of vehicles, shrubland, plant nurseries, agricultural land and vacant land/structures in the subject “R(D)” zone;
- (b) predominantly agricultural land, shrubland and vacant land intermixed with a residential structure, a construction site and a storage yard in the subject “GB” zone;
- (c) the agricultural land and shrubland are mainly concentrated to the east and southeast of the Site across a nullah;
- (d) there are residential structures in the vicinity of the Site with the nearest one located to the immediate north of the Site; and
- (e) except for an open storage yard to the north, the other open storage/storage yards and parking of vehicles in the vicinity of the Site are suspected UD subject to enforcement action taken by the Planning Authority.

9. Planning Intentions

- 9.1 The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.
- 9.2 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application and public comments, where relevant, 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) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularise any irregularities on the Site, if any. Besides, given the proposed use is temporary in nature,

only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

Traffic

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

- (a) He has no further comment on the FI (**Appendix Ib**) submitted by the applicant.
- (b) The land status of the access road/path/track leading to the Site from Long Hon 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.

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 Tong Yan San Tsuen Interchange.

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 (including the nearest one situated to the immediate north of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (c) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use”

to minimise any potential environmental nuisance on the surrounding areas.

Landscape

10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD):

- (a) She has no objection to the application from landscape planning perspective.
- (b) According to past aerial photos, the Site appears to have been hard-paved and occupied by temporary structures since 1994. The Site is located in an area of miscellaneous rural fringe landscape character predominated by temporary structures, open storage yards, farmlands and tree clusters. The proposed redevelopment is considered not entirely incompatible with the landscape character of the surrounding area. Significant adverse landscape impact arising from the proposed redevelopment is not envisaged.

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 from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development 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):

- (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 reminded of the detailed comments at **Appendix V**.

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 granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Long-Term Development

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 Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area mainly zoned “Local Open Space” and partly zoned “GB(1)”.
- (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) However, based on the preliminary project boundary of the proposed YLS Development, part of the Site falls within the boundary of the proposed YLS Development – Stage 4. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 4 is being formulated.

District Officer’s Comments

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

His office has not received any feedback from the locals.

10.2 The following government departments have no comment 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 Comments Received During the Statutory Publication Period

On 22.9.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from the Kadoorie Farm and Botanic Garden Corporation (KFBG) and a member of the general public. KFBG objected to the application mainly on the grounds that the proposal is not in line with the planning intention of the “GB” zone; and approval of the application would set an undesirable precedent for other similar applications (**Appendix IV-1**). The individual raised concerns that the Site is not subject to previous planning approval and approval of the application would delay the long-term development of the area (**Appendix IV-2**).

12. Planning Considerations and Assessments

- 12.1 The subject application is for temporary warehouse for a period of 3 years at a site zoned “R(D)” (about 51.4%) and “GB” (about 48.6%) on the OZP. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, while the planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. The proposal for warehouse use is not in line with the planning intentions of both the “R(D)” and “GB” zones. No strong planning justifications have been provided in the submission for a departure from the planning intentions, even on a temporary basis.
- 12.2 The proposed 2-storey warehouse, with a height of 12m and plot ratio (PR) of 1.88 (floor area of 4,320m²), far exceeds the prevailing building height and PR restriction of 6m and 0.2 respectively of the “R(D)” zone and is considered excessive. The nature and the scale of the proposal is considered not compatible with the intended uses of the “R(D)” and “GB” zones and the rural character of the area, particularly the agricultural land and shrubland to its east. Although there are some open storage/storage yards and parking of vehicles in the vicinity, they are mainly suspected UD subject to enforcement action by the Planning Authority.
- 12.3 The proposal is generally not in line with TPB-PG No. 10 in that there are no exceptional circumstances warranted by the development; the applicant has not provided any strong planning grounds to justify the proposal; the nature and excessive scale of the proposed warehouse redevelopment is not compatible with the rural character of the area; and there is objection from DEP as the proposal with traffic of heavy vehicles would generate environmental nuisance to the sensitive receivers of residential use in the vicinity of the Site (including the nearest one located to the immediate north of the Site) (**Plan A-2**).
- 12.4 There are six similar applications for various temporary warehouse with or without open storage and/or ancillary uses within/straddling the subject “R(D)” and “GB” zones, which were all rejected by the Board on review or the Committee between 1998 and 2019 mainly on the grounds, amongst others, that the proposals were not in line with the planning intentions of the “R(D)” and/or “GB” zones and the TPB PG-No.10; there were potential adverse environmental/drainage/traffic/landscape impacts; and approval of the applications would set an undesirable precedent, the cumulative impact would result in a general degradation of the rural environment of

the area. Such considerations are generally applicable to the current application. Overall, rejecting the current application is generally in line with the Committee/the Board's previous decisions.

12.5 Two public comments raising concerns/objecting to the proposal were received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 are relevant.

13. Planning Department's Views

13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments summarised in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposal is not in line with the planning intentions of the "R(D)" and "GB" zones. The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas into permanent buildings, while the planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. No strong planning justification has been given in the submission for a departure from the planning intentions, even on a temporary basis;
- (b) the proposal is not in line with the Town Planning Board Guidelines No. 10 for Application for Development within the "Green Belt" Zone in that no strong planning ground has been given in the submission to justify the proposal; the nature and excessive scale of the proposed warehouse is not compatible with the rural character of the area, particularly the agricultural land and shrubland to its east; and the applicant fails to demonstrate that the development would not generate adverse environmental impact on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the "R(D)" and "GB" zones. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

13.2 Alternatively, 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 6.11.2023. The following approval conditions 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 heavy goods vehicle exceeding 24 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the

applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;

- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.5.2021;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.8.2021;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.5.2021;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.8.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (k) if any of the above planning conditions (e), (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (l) 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.

Advisory clauses

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

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form with plan received on 14.9.2020
Appendix Ia	Supplementary Information received on 16.9.2020
Appendix Ib	FI received on 29.9.2020
Appendix Ic	FI received on 14.10.2020
Appendix II	Extract of TPB PG-No. 10
Appendix III	Similar applications within/straddling the “R(D)” and “GB” zones on the OZP
Appendices IV-1 and IV-2	Public comments received during the statutory publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photos
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**