

RNTPC Paper No. A/YL-TYST/1089
For Consideration by
the Rural and New Town
Planning Committee
on 14.5.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1089

Applicant : Mr. LAU Yau Sum represented by Metro Planning and Development Company Limited

Site : Lot 864 S.A & S.B (Part) in D.D. 119, Yuen Long, New Territories

Site Area : 420 m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Draft Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/13

Zoning : “Undetermined” (“U”)

Application : Proposed Temporary Warehouse for Storage of Construction Material for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of construction material for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP for the “U” zone, all uses or development except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 The Site involves one previous application (No. A/YL-TYST/927) for the same use as the current application (**Plan A-1**), which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 7.12.2018. However, the planning permission was revoked on 7.5.2021 due to non-compliance with time-limited approval conditions on implementation of drainage and fire service installations (FSIs) proposals. Compared with the last application (No. A/YL-TYST/927), the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters albeit with longer operation hours.

- 1.3 According to the applicant, the Site is intended for storage of construction materials (including pvc pipes, tiles and sanitary wares). No medium and heavy goods vehicle, including container trailer/tractor, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout, landscape proposal, drainage proposal and FSIs proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the current application and the previously approved application are summarised as follow:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/927 (a)	Current Application No. A/YL-TYST/1089 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Construction Material for a Period of 3 Years		---
Site Area	About 420 m ²		---
Total Floor Area (non-domestic)	About 225 m ²		---
No. and Height of Structure	1 • for warehouse (8.5m, 1 storey)		---
No. of Loading/ Unloading Space(s)	1 (for light goods vehicle) (7m x 3.5m)		---
Operation Hours	10:00 a.m. to 4:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays	Longer operation hours

- 1.5 In support of the application, the applicant has submitted Application Form with annex and plans which were received on 18.3.2021 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The Site was the subject of previous planning permission and has been occupied by the applied use since 2018. Regarding revocation of the previous application (No. A/YL-TYST/927), the applicant is still waiting for the approval of Short Term Waiver (STW). As the FSIs proposal could only be implemented after the erection of building, hence the implementation of FSIs proposal could not be completed within the deadline.
- (b) The temporary proposal would not jeopardise the long-term planning intention. A number of open storage and port back-up uses have been approved by the Board in the vicinity of the Site and their planning circumstances are similar to that of the Site. The proposal is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in TYST.

- (c) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

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 site notice and sending notice to the Ping Shan Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to planning enforcement action.

5. **Previous Application**

The Site involves one previous application (No. A/YL-TYST/927) submitted by the same applicant for the same use on the same site with the same site layout and development parameters albeit with shorter operation hours, which was approved with conditions for a period of 3 years by the Committee in 2018, mainly on the considerations that the proposal was not incompatible with the surrounding uses; the proposal would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission was revoked on 7.5.2021 due to non-compliance with time-limited approval conditions on implementation of drainage and FSIs proposals. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 A total of 88 similar applications for various temporary warehouse uses with/without other uses within/straddling the subject “U” zone had been considered by the Committee since 2015. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Out of the 88 similar applications, 85 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, the planning permissions for 25 of them were revoked due to non-compliance with approval conditions.
- 6.3 The remaining three applications (No. A/YL-TYST/922, 926 and 943) were rejected by the Committee between 2018 and 2019 on the grounds that approval of applications with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.

- 6.4 For Members' information, application No. A/YL-TYST/1081 for temporary warehouse for storage of construction materials, construction machinery, used electrical/electronic appliances and parts and scrap metal for a period of 3 years straddling the subject "U" zone will also be considered at this meeting (**Plan A-1**).

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

- 7.1 The Site is:

- (a) accessible from Kung Um Road to its east via a local track; and
- (b) partly paved and currently vacant.

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

- (a) comprise predominately open storage/storage yards and warehouses intermixed with scattered residential structures, a construction site, graves, shrubland and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest ones located about 15m to its northeast and southwest;
- (c) to the immediate west and further west are areas zoned "Green Belt" and "Conservation Area" respectively on the OZP; and
- (d) the open storage/storage yards and warehouses in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, under the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation" (the YLS Study), this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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 application, the lot owner(s) will need to apply to her office to permit the structures to be erected or to regularise any irregularities on 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 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 rent or fee, as may be imposed by her department.
- (c) The STW application submitted by the applicant for the Site is under processing by her office.

Traffic

9.1.2 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.

9.1.3 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

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

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” (Code of Practice) to minimise any potential environmental nuisances on the surrounding area.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view and no adverse comment on the submitted drainage proposal.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction and the submitted FSIs proposal (**Drawing A-5**) is considered acceptable.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

9.1.7 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

9.1.8 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 YLS Study. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls within an area zoned “Other Specified Use” (“OU”).
- (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.

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

- (a) He has no objection to the application.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the Site falls within the 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 the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 3 is being formulated.

District Officer’s Comments

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

Her office has not received any feedback from locals.

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

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

10. Public Comments Received During the Statutory Publication Period

On 26.3.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from

individuals. One individual objected to the application on the grounds that the proposed use will cause adverse traffic and environmental impacts and fire safety risks on the surrounding area (**Appendix IV-1**). The other individual raised concerns on the progress in compliance of approval conditions of the previous applications and that approval would undermine the long-term development plans of the area (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of construction material for a period of 3 years at a site zoned “U” on the OZP. The proposed use is not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site falls within an area zoned as “OU” on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding area comprises predominantly open storage/storage yards and warehouses (**Plan A-2**). Although there are residential structures in the vicinity, the proposal is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the local concerns and the technical requirements of 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 be advised to follow the relevant environmental mitigation measures in the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 The Site involves one previous application (No. A/YL-TYST/927) for the same use as the current application and submitted by the same applicant, which was approved with conditions for a period of 3 years by the Committee on 7.12.2018. Subsequently, the planning permission was revoked on 7.5.2021 due to non-compliance with time-limited approval conditions on implementation of drainage and FSIs proposals. Nevertheless, the applicant has submitted drainage and FSIs proposals for the current application (**Drawings A-4 and A-5**), which CE/MN, DSD and D of FS considered acceptable. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.
- 11.5 Given that one previous approval for the same use as the current application has been granted to the Site and 85 similar applications have been approved

within/straddling the subject “U” zone since 2015, approval of the current application is generally in line with the Committee’s previous decisions. While there were three similar applications rejected by the Committee on the grounds that approval of the application with repeated non-compliance with approval conditions would set an undesirable precedent for other similar planning permissions for temporary use, such consideration is not applicable to the current application as there is only one recent revocation of previous approval at the Site. Given the considerations in paragraph 11.4 above, sympathetic consideration may be given to the current application.

- 11.6 There are two public comments received on the application during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary warehouse for storage of construction material 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 14.5.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 5:00 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 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;
- (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 provision of boundary fencing on the site within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 14.8.2021;
- (f) the implementation of the accepted 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 14.11.2021;

- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the implementation of the accepted 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 14.11.2021;
- (i) 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; and
- (j) if any of the above planning conditions (e), (f) or (h) 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 V**.

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 with annex and plans received on 18.3.2021
Appendix II	Previous Application covering the Application Site
Appendix III	Similar Applications within/straddling the “U” zone on the OZP since 2015
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan

Drawing A-3	Landscape Plan
Drawing A-4	Proposed Drainage Plan
Drawing A-5	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2021**