

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/1094**

<b><u>Applicant</u></b>	:	Luxe Tone Develop Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lot 1198 S.C (Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	1,182m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
<b><u>Zoning</u></b>	:	“Undetermined” (“U”)
<b><u>Application</u></b>	:	Temporary Warehouse for Storage of Furniture 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 furniture 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 occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site involves one previous application (No. A/YL-TYST/801) 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 26.8.2016. All the approval conditions of the planning permission have been complied with and the planning permission lapsed on 27.8.2019. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with similar development parameters albeit with slightly different site layout.
- 1.3 According to the applicant, no dangerous goods will be stored at the Site at any time during the planning approval period. No heavy goods vehicles, including container tractor/trailer, are allowed to park / enter the Site and no visitor is

allowed at the Site. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1** to **A-2** respectively.

- 1.4 The major development parameters of the current application and the previously approved application are summarised as follow:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TYST/801 (a)</b>	<b>Current Application No. A/YL-TYST/1094 (b)</b>	<b>Difference (b)-(a)</b>
Applied Use	Temporary Warehouse for Storage of Furniture for a Period of 3 Years		--
Site Area	About 1,182 m <sup>2</sup>		--
Total Floor Area (non-domestic)	About 619 m <sup>2</sup>	About 622 m <sup>2</sup>	+3 m <sup>2</sup> (+0.5%)
No. and Height of Structures	2 • for warehouse and fire service water tank (3.5-8.23m, 1 storey)	5 • for warehouses and rain shelters (3-8.23m, 1 storey)	+3 (+150%)
No. of Parking Space(s)	2 (for private car) (2.5m x 5m each)		--
No. of Loading/ Unloading Space(s)	1 (for medium goods vehicle) (3.5m x 11m)		--
Operation Hours	9:00 a.m. to 6:00 p.m., 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 and plans received on 12.4.2021 **(Appendix I)**
- (b) Further Information (FI) received on 27.5.2021 **(Appendix Ia)** responding to departmental comments  
*[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 (**Appendix I**). They can be summarised as follows:

- (a) The temporary proposal would not jeopardise the long-term planning intention. The Site was the subject of one previous planning permission (No. A/YL-TYST/801) for the same use. Approval of the current application will not set an undesirable precedent.
- (b) The proposal will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) and relevant Professional Persons Environmental Consultative Committee Practice Notes.

- (c) There will be minimal traffic, environmental, landscape 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 the notice to the Shap Pat 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/801) submitted by the same applicant for the same use on the same site with similar development parameters albeit with slightly different site layout, which was approved with conditions for a period of 3 years by the Committee in 2016, mainly on the considerations that the proposal would not frustrate the long-term development of the area; the proposal was not incompatible with the surrounding uses and the concerns of relevant government departments could be addressed by imposing approval conditions. All the time-limited approval conditions of the application have been complied with and the planning permission lapsed on 27.8.2019. Details of the previous application are summarised in **Appendix II**.

### 6. **Similar Applications**

- 6.1 A total of 90 similar planning 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 90 similar planning applications, 87 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 planning 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.

## **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;
- (b) paved and largely fenced off; and
- (c) occupied by the applied use without valid planning permission.

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, workshops, logistics centre and vacant land/structures;
- (b) there are scattered residential structures in the vicinity of the Site with the nearest one located about 15m to its southwest across a local track; and
- (c) except for eight warehouses and/or open storage/storage yards with/without ancillary uses operating with valid planning permissions (No. A/YL-TYST/898, 960, 982, 1000, 1019, 1038, 1053 and 1079), the other open storage/storage yards, warehouses, workshops and logistics centre 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 comment, 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) Lot No. 1198 S.C in D.D. 119 is covered by Short Term Waiver (STW) No. 4527 to permit structures erected thereon for the purpose of “Temporary Open Storage and Warehouse for Storage of Furniture, Exhibition Materials, Construction Materials/Machinery and Household Detergent”.
- (c) Should planning approval be given to the 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. 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.

### **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):

- (a) He does not support the application as there are residential uses in the vicinity (with the nearest one located about 15m to its southwest) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There are no substantiated environmental complaints 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 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 proposal 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**

#### 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 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**

#### 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 (Mixed Use)” (“OU(MU)”).
- (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 majority of 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 comment from the village representatives in the vicinity regarding the application.

#### 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 Comment Received During the Statutory Publication Period**

On 20.4.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received objecting to the application on the grounds that the applied use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix IV**).

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary warehouse for storage of furniture 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 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 “OU(MU)” 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 areas comprise 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 on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located about 15m to its southwest) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 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 areas.
- 11.4 Given that one previous approval for the same use as the current application has been granted to the Site and 87 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 all the planning approval conditions of the previous application have been complied with.



- 11.5 There is one public comment received on the application during the statutory publication period as summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of furniture 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 11.6.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 6:00 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing trees on the Site shall be maintained at all times 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 11.12.2021;
- (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 11.3.2022;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all time 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 11.12.2021;
- (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 11.3.2022;

- (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; and
- (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.

Advisory clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding areas.

**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**

<b>Appendix I</b>	Application Form and plans received on 12.4.2021
<b>Appendix Ia</b>	FI received on 27.5.2021
<b>Appendix II</b>	Previous Application covering the Application Site
<b>Appendix III</b>	Similar Applications within/straddling the "U" zone on the OZP since 2015
<b>Appendix IV</b>	Public Comment received during the Statutory Publication Period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo

**Plan A-4**

Site Photos

**PLANNING DEPARTMENT  
JUNE 2021**