

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1098

- Applicant** : Merrily Development and Investment Company Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 2008 S.B RP, 2008 S.C ss.1, 2008 S.E RP and 2008 S.F ss.1 RP in D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 3,380 m² (about)
- Lease** : New Grant Lots (for orchard purpose only)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Other Specified Uses” annotated “Storage and Workshop Use” (“OU(SW)”) (about 86.3%); and
[restricted to a maximum plot ratio of 5 and maximum building height of 110mPD]

an area shown as ‘Road’ (about 13.7%)
- Application** : Temporary Logistics Centre and Warehouse for Storage of Recyclable Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary logistics centre and warehouse for storage of recyclable materials for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “OU(SW)” zone, ‘Warehouse (other than Dangerous Goods (DG) Godown)’ is always permitted, while ‘Cargo Handling and Forwarding Facility’ (under which logistics centre is subsumed) is a Column 2 use which requires planning 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/1011 (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves two previous applications for proposed asphalt concrete batching plant and the same use as the current application (**Plan A-1**). The last application (No. A/YL-TYST/1011) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 10.7.2020 and the planning permission is valid up to 10.7.2023. Compared with the last application, the current

application is submitted by a different applicant for the same use at the same site with slightly different development parameters and site layout.

- 1.3 According to the applicant, the temporary warehouse is for storage of recyclable materials (such as plastic and metal) and the temporary logistics centre is for providing logistical support for provisions businesses, including freight management, inventory control, and storage and consolidation of goods for distribution. No workshop activities and no storage or handling (including loading and unloading (L/UL)) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) and any types of electronic waste will be carried out on the Site. In addition, no heavy goods vehicles, including container tractor/trailer, are allowed to enter the Site. Plans showing the site layout and drainage proposal submitted by the applicant are at **Drawings A-1** and **A-2** respectively.
- 1.4 The major development parameters of the current application and the previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/1011 (a)	Current Application No. A/YL-TYST/1098 (b)	Difference (b)-(a)
Applied Use	Temporary Logistics Centre and Warehouse for Storage of Recyclable Materials for a Period of 3 Years		--
Site Area	About 3,380 m ²		--
Total Floor Area (non-domestic)	About 1,580 m ²	About 2,170 m ²	+590 m ² (+37.3%)
No. and Height of Structures	4 • for logistics centre, warehouse, site office and toilet (3-10 m, 1 storey)	7 • for logistics centre, warehouse, site office, E&M, toilet and store room (3-13 m, 1-2 storeys (s))	+3 (+75%)
No. of L/UL Space(s)	1 (for medium goods vehicle) (11m x 3.5m)		--
Operation Hours	7:00 a.m. to 9:00 p.m., with no operation on Sundays and Public Holidays		--

- 1.5 In support of the application, the applicant has submitted an Application Form with annexes and plans received on 5.5.2021 (**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 proposed warehouse is permitted as-of-right in the “OU(SW)” zone. The Site is subject to a planning permission (No. A/YL-TYST/1011); as the layout is slightly different to the previous approval, a fresh application is submitted to comply with fire service installations (FSIs) requirement.
- (b) The proposed development is in line with the planning intention of the “OU(SW)”

zone and the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13F).

- (c) There will be minimal traffic 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 Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

On 27.3.2020, the Board promulgated the revised TPB PG-No. 13F. The Site falls within Yuen Long South (YLS) Development Area. The criteria for New Development Areas (NDAs) (including potential development areas) under the revised Guidelines are applicable. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site involves two previous applications for proposed asphalt concrete batching plant (No. A/YL-TYST/88) and the same use as the current application (No. A/YL-TYST/1011) covering the same site. The site was zoned “Industrial (Group D)” (“I(D)”) on previous version of the OZP at the time of consideration of the former application by the Committee. Details of the applications are summarised in **Appendix III** and the boundary of the site is shown on **Plan A-1**.
- 6.2 Application No. A/YL-TYST/88 for proposed asphalt concrete batching plant was approved with conditions by the Committee on 17.3.2000, mainly on the grounds that the proposal was in line with the planning intention and the development restrictions of the then “I(D)” zone; and generally compatible with the surrounding areas. On 14.3.2003, the Board approved an application to extend the validity of the planning permission for a further 12 months. However, the proposal did not commence and the planning permission expired on 18.3.2004.
- 6.3 Application No. A/YL-TYST/1011 for the same use as the current application was approved with conditions by the Committee on 10.7.2020, mainly on the grounds that the development was not incompatible with the surrounding uses; the development would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. The permission is valid until 10.7.2023.

- 6.4 Compared with the last application (No. A/YL-TYST/1011), the current application is submitted by a different applicant for the same use at the same site with slightly different development parameters and site layout.

7. Similar Application

There is no similar application for logistics centre use within the subject “OU(SW)” zone.

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

8.1 The Site is:

- (a) accessible via a short local track leading from Tong Yan San Tsuen Road to its north (**Plan A-2**);
- (b) paved and fenced-off; and
- (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/1011.

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

- (a) predominantly open storage/storage yards, workshop/factories and warehouses (including DG godowns) intermixed with a residential structure with store, concrete batching plant, electricity substation, logistics centre, graves, unused land and vacant land/structures;
- (b) there is a residential structure located about 5m to its northeast;
- (c) to the north of the Site across Tong Yan San Tsuen Road is another area zoned “OU(SW)” on the OZP; and
- (d) part of the concrete batching plant, the DG godown/storage yard, storage yard for chemical materials, store and logistics centre in the area are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “OU(SW)” zone is for multi-storey buildings to house the brownfield operations that could not be accommodated in conventional flatted factory buildings (i.e. storage of goods or operations that involve bulky and heavy goods/machinery and require high headroom).

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 New Grant Lots which shall not be used for any purpose other than as an orchard.
- (b) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office for a Short Term Waiver to (i) waive the user restriction as stipulated in the lease conditions, if any; and/or (ii) permit the structures to be erected; and/or (iii) 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.

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 Tong Yan San Tsuen Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should 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 Tong Yan San Tsuen Road.

Environment

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

- (a) He does not support the application as there is residential use in the vicinity (located about 5m to the northeast of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There are 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 relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

10.1.5 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. The applicant should also be reminded of the detailed comments at **Appendix V**.

Fire Safety

10.1.6 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.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. 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

10.1.7 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**.

Water Supply

10.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centerline of the water mains shall be provided to his department. The applicant should also 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 YLS – Investigation”. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site mainly falls within an area zoned “Other Specified Uses (Storage Use)” (“OU(SU)”) and partly falls within an area shown as ‘Road’.
- (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 three 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 application.
- (b) However, the Site falls within the boundary of YLS Development – Stage 2 Phase 2. The land resumption and clearance programme of the project is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 2 Phase 2.

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 Agriculture, Fisheries and Conservation (DAFC); and
- (b) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 14.5.2021, the application was published for public inspection. During the three weeks of the statutory public inspection period, two public comments from individuals were received. One individual opined that approval of the application would hinder the planning intention of the subject zoning (**Appendix IV-1**). The other individual objected to the application mainly on the grounds that the applied use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix IV-2**).

12. Planning Considerations and Assessments

12.1 The application is for temporary logistics centre and warehouse for storage of recyclable materials for a period of 3 years at a site mainly zoned "OU(SW)" (about 86.3%) and partly within an area shown as 'Road' (about 13.7%) on the OZP. While the warehouse component is always permitted within the "OU(SW)" zone, the logistics centre component is generally not in conflict with the planning intention of the "OU(SW)" zone which is intended for multi-storey buildings to house the brownfield operations that could not be accommodated in conventional flatted factory buildings. Although the Site mainly falls within an area zoned "OU(SU)" and partly falls within an area shown as 'Road' 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 for three years. As such, 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 predominantly industrial operations, open storage/storage yards and warehouses (**Plan A-2**). Although there is a residential structure in the vicinity, the development is generally not incompatible with the surrounding uses within the subject "OU(SW)" zone.

12.3 The Site falls within the YLS Development Area. For applications in NDAs (including potential development areas), the following considerations in the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments,

where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

- 12.4 The application is generally in line with TPB PG-No. 13F in that the Site falls within the YLS Development Area and previous planning approval for similar port back-up use had been granted; relevant proposal had been submitted to demonstrate that the applied use would not generate adverse impact on the surrounding areas; and the technical concerns of relevant departments could be addressed through the imposition of approval conditions.
- 12.5 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there is a sensitive receiver of residential use in the vicinity of the Site (located about 5m to its northeast) (**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 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 in order to minimise any potential environmental impact on the surrounding areas.
- 12.6 Given that one previous approval for the same use has been granted to the Site, approval of the current application is generally in line with the Committee's previous decision.
- 12.7 There are two public comments received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.6 above 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 as summarised in paragraph 11, the Planning Department has no objection to the application.
- 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 period of 3 years until 25.6.2024. 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 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 workshop activities and no storage or handling (including loading and unloading) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) and any type of electronic waste, as proposed by the applicant, are allowed on 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 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 25.12.2021;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) 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 25.12.2021;
- (h) in relation to (g) 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 25.3.2022;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (f) 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), (g) 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**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:

- (a) the applied logistics centre is not in line with the planning intention of the "OU(SW)" zone, which is primarily intended for multi-storey buildings to house the brownfield operations that could not be accommodated in

conventional flatted factory buildings. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and

- (b) the applicant fails to demonstrate that the proposed development would not generate adverse environmental impact on the surrounding areas.

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

Appendix I	Application Form with annexes and plans received on 5.5.2021
Appendix II	Relevant Extract of TPB PG-No. 13F
Appendix III	Previous Applications covering the Site
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
Drawing A-2	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**