

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

APPLICATION NO. A/YL-TYST/1111

- Applicant** : Mr. CHEUNG Kam Kwong represented by Goldrich Planners & Surveyors Limited
- Site** : Lots 322 S.A (Part), 323 (Part), 324 (Part) and 1421(Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 2,455.7 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/14 currently in force

Draft TYST OZP No. S/YL-TYST/13 at the time of submission
- Zonings** : “Residential (Group A) 3” (“R(A)3”) (about 61%);
[restricted to a maximum plot ratio of 7 and maximum building height (BH) of 160mPD]

“Open Space” (“O”) (about 28.1%); and

“Village Type Development” (“V”) (about 10.9%)
[restricted to a maximum BH of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Machinery and Scrap Metals with Ancillary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application Site (the Site) for temporary open storage of construction materials, machinery and scrap metals with ancillary site office for a period of 3 years (**Plan A-1a**). The Site mainly falls within an area zoned “R(A)3” (about 61%), partly within an area zoned “O” (about 28.1%) and partially within an area zoned “V” (about 10.9%) on the OZP. Although the applied use is neither a Column 1 or 2 use in the “R(A)”, “O” and “V” zones, according to the Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years 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 the applied use with valid planning permission under application No. A/YL-TYST/919 (**Plans A-2 to A-4b**).

- 1.2 The Site involves eight previous applications for temporary uses (**Plan A-1b**). The last application (No. A/YL-TYST/919) for the same use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 5.10.2018. All the time-limited approval conditions under the last application have been complied with and the planning permission is valid up to 5.10.2021. Compared with the last application, 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.
- 1.3 According to the applicant, no heavy goods vehicles, including container trailers/tractors, will enter the Site. No workshop activities will be carried out at the Site and no used electrical appliances, televisions, computer monitors, computer/electronic parts or any other electronic waste is allowed to be stored at the Site. Plans showing the vehicular access leading to the Site, site layout, landscape and tree preservation proposal, drainage proposal and fire service installations (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 are the same as the previously approved application No. A/YL-TYST/919, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/919	Current Application No. A/YL-TYST/1111
Applied Use	Temporary Open Storage of Construction Materials, Machinery and Scrap Metals with Ancillary Site Office for a Period of 3 Years	
Site Area	About 2,445.7 m ²	
Total Floor Area (Non-domestic)	About 302.9 m ²	
No. and Height of Structures	5 • for open sheds for storage, container storerooms and office (2.6m-5.2m, 1-2 storey(s))	
No. of Parking Space	---	
No. of Loading/Unloading Space(s)	1 (for medium goods vehicle)	
Operation Hours	7:00 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 with annex and plans received on 9.8.2021 (**Appendix I**)
- (b) Further Information (FI) received on 6.9.2021 (**Appendix Ia**)

(c) FI received on 16.9.2021

(Appendix Ib)

[(b) and (c) 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 annex attached to the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The Site was the subject of eight previous planning permissions for the same use with/without ancillary uses. All approval conditions imposed on the last planning approval (No. A/YL-TYST/919) had been complied with and the applicant would like to seek renewal of planning approval for a period of 3 years to continue the current use.
- (b) The temporary proposal would not frustrate the long-term planning intention of the area. The surrounding developments are mainly open storage yards. The applied use is thus compatible with the surrounding area. No complaint has been received since the commencement of operation at the Site.
- (c) There will be no adverse landscape, noise and drainage impacts arising from the applied use.

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 through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

- 4.1 On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (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**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are also relevant to the application. The relevant assessment criteria are at **Appendix III**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site involves eight previous applications (A/YL-TYST/208, 250, 352, 486, 539, 613, 753 and 919) for the same use as the current application with/without ancillary uses¹. All eight previous applications were approved by the Committee between 2003 and 2018 each for a period of 1 or 3 years, mainly on the considerations that the applied uses were generally in line with the then TPB PG-No.13C (or its later versions); the developments were not incompatible with the surrounding uses; approval on a temporary basis would not frustrate the long-term planning intention of the “U” zone; there was no imminent need for Small House (SH) development within the “V” zone portion of the Site; and the concerns of relevant Government departments could be addressed by imposing approval conditions. Whilst the planning approvals granted under applications No. A/YL-TYST/208 and 486 were subsequently revoked in 2004 and 2011 respectively due to non-compliance with approval conditions, all the approval conditions imposed on the planning permissions for the remaining six applications had been complied with and the planning permission of the last application is valid up to 5.10.2021. Details of the applications are summarised in **Appendix IV** and the boundary of the sites are shown on **Plan A-1b**.
- 6.2 Compared with the last application (No. A/YL-TYST/919), 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.

7. **Similar Applications**

- 7.1 There are 35 similar applications for various temporary open storage uses with/without ancillary uses within/straddling the subject “R(A)3” and “O” zones since 2015. Details of the applications are summarised at **Appendix V** and their locations are shown on **Plan A-1a**.
- 7.2 Out of the 35 similar applications, 34 were approved mainly on similar considerations that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for 8 of them were subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining application (No. A/YL-TYST/1058) was rejected by the Committee in 2020 mainly on the grounds that the applied use was not in line with TPB PG-No. 13F in that the applicant could not demonstrate that the continued operation of the applied use would not generate adverse environmental impact on the surrounding areas.

¹ The application sites were zoned “Undetermined” (“U”) and “V” on previous versions of the OZPs at the time of consideration by the Committee.

- 7.4 For Members' information, application No. A/YL-TYST/1114 for proposed temporary warehouse and open storage for storage of construction machinery and construction materials for a period of 3 years straddling the subject "O" zone will also be considered at this meeting (**Plan A-1a**).

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

8.1 The Site is:

- (a) accessible via a local track leading from Shan Ha Road to its northwest (**Drawing A-1** and **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/919 (**Plans A-4a** and **A-4b**).

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

- (a) comprise predominantly of warehouses and open storage/storage yards, with scattered residential structures, parking of vehicles, a vehicle repair workshop, stores, shrubland and vacant land/ structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 15m to its west; and
- (c) except for two open storage yards operating with valid planning permissions (No. A/YL-TYST/1001 and 1102), the other warehouses and open storage/storage yards, parking of vehicles, vehicle repair workshop and stores in the vicinity are suspected unauthorised development (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intentions

- 9.1 The planning intention of the "R(A)" zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.
- 9.2 The planning intention of the "O" zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.
- 9.3 The planning intention of the "V" zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of SHs by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

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. Some of the lots within the Site are covered by Short Term Waivers (STWs), details of which are in **Appendix VII**.
- (b) 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. The lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on sites, if any. Besides, given the applied 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) There is no SH application approved/under processing at the Site.

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 Shan Ha 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 to prevent surface

water running from the Site to the nearby public roads and drains.

- (b) His department shall not be responsible for the maintenance of any access connecting the Site and the nearby public roads.

Environment

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

- (a) She does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located 15m to its west) (**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 on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisances.

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 subject development and the condition record submitted by the applicant (**Appendix Ia**) is considered acceptable.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval condition requiring the maintenance of the existing drainage facilities should be stipulated. The applicant should be reminded of the detailed comments at **Appendix VII**.

Fire Safety

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

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

Building Matters

10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval by the Building Authority for the structures at the Site, he is not in a position to offer comments on their suitability for the use related to the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix VII**.

Open Space

10.1.8 Comments of the Director of Leisure and Cultural Services (DLCS):

- (c) He has no in-principle objection to the proposal.
- (d) The Site is not on the priority list for development agreed by the Yuen Long District Council. His department has no plan to develop the portion of the Site zoned “O” into public open space at present.

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 of YLS promulgated in May 2020, the Site falls partially within an area zoned “Special Residential – Zone 1 – Public Rental Housing (with Commercial)” (“RS(1)c”), partially within an area zoned as “Local Open Space” (“LO”), partially within an area shown as ‘Road’ and partially outside the Development Area of YLS.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

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

- (a) He has no objection to the subject application.
- (b) The majority of 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 comment from the locals.

10.2 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).

11. Public Comments Received During Statutory Publication Period

On 17.8.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received from individuals. Two individuals objected to the application on the grounds that the applied use will cause adverse traffic/road safety, environmental and fire safety impacts on the surrounding area, with the latter individual also raising concerns on the environmental hygiene and land use compatibility of the applied use for the previous application (**Appendices VI-1 and VI-2**). The remaining individual raised concerns over the implementation of the planned land uses and questioned the history of compliance of approval conditions (**Appendix VI-3**).

12. Planning Considerations and Assessment

12.1 The application is for renewal of planning approval for temporary open storage of construction materials, machinery and scrap metals with ancillary site office for a period of 3 years at a Site mainly zoned “R(A)3” (about 61%), partly within an area zoned “O” (about 28.1%) and with a minor portion within an area zoned “V” (about 10.9%) on the OZP. The planning intentions of the “R(A)” and “O” zones are primarily for high-density residential developments and provision of outdoor open air public space respectively; while the planning intention of the “V” zone is primarily for development of SHs by indigenous villagers. Although the applied use is not in line with the aforesaid planning intentions, and the Site mainly falls within YLS Development, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD and DLCS have no objection to the application. Furthermore, there is currently no SH application approved/under processing at the Site. 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 area comprises predominantly open storage/storage yards and

warehouses (**Plan A-2**). Although there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding uses.

- 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 largely falls within the YLS Development Area and previous planning approvals for similar open storage uses have been granted; all time-limited approval conditions of the last application have been complied with; relevant proposals have been submitted to demonstrate that the applied use would not generate adverse impacts on the surrounding areas; and the local concerns and technical concerns of relevant departments could be addressed through the imposition of approval conditions.
- 12.5 The application is also generally in line with TPB PG-No. 34D in that approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the last application No. A/YL-TYST/919 had been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.6 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 the west of the Site (**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. To address the concerns on the possible environmental nuisances generated by the temporary use and the technical concerns of other concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. 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 keep the Site clean and tidy at all times and to follow the Code of Practice in order to minimise any potential environmental

impact on the surrounding areas.

- 12.7 Given that eight previous approvals for the same open storage uses have been granted to the Site and 34 similar applications have been approved within/straddling the subject “R(A)3” and “O” zones since 2015, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.8 There are three public comments objecting and providing views on the application received during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.7 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 summarised in paragraph 11 above, the Planning Department considers that the temporary open storage of construction materials, machinery and scrap metals with ancillary site office could be tolerated for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years and be renewed from 6.10.2021 to 5.10.2024. 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 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no used electrical appliances, televisions, computer monitors, computer/electronic parts or any other electronic waste is allowed to be stored on the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) no heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/exit the Site at any time during the planning approval period;
- (f) the existing tree and landscape plantings on the Site shall be maintained at all times during the planning approval period
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period; and
- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

[Approval conditions (a), (b), (e) to (g) are the same as those under the permission for application No. A/YL-TYST/919, conditions (c), (d) and (h) have been updated as per the current application, restriction on queuing and reverse movement of vehicles is now stipulated as an advisory clause, and the reinstatement condition is deleted to accord with the department's latest requirements.]

Advisory clauses

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

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

- (a) the applied use is not in line with the planning intentions of the "R(A)", "O" and "V" zones which are primarily for high-density residential developments, provision of outdoor open-air public space and development of Small Houses by indigenous villagers respectively. No strong planning justification has been given in the submission to justify a departure from the planning intentions, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding area.

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 annex and plans received on 9.8.2021
Appendix Ia	FI received on 6.9.2021

Appendix Ib	FI received on 16.9.2021
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Relevant Extracts of TPB PG-No. 34D
Appendix IV	Previous Applications covering the Site
Appendix V	Similar Applications within/straddling the subject “R(A)3”, “O” and “V” Zones on the TYST OZP Since 2015
Appendices VI-1 to VI-3	Public Comments received during the Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape and Tree Preservation Proposal
Drawing A-4	Drainage Proposal
Drawing A-5	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**