

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1122

- Applicant** : Yat Cheong (China) Development Limited represented by Top Bright Consultants Limited
- Site** : Lots 1547 and 1548 in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 1,891 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Undetermined” (“U”)
- Application** : 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-1a**). 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 to A-4b**).
- 1.2 The Site involves nine previous applications for various temporary uses (**Plan A-1b**). The last application (No. A/YL-TYST/923) 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 2.11.2018. All the approval conditions of the planning permission have been complied with and the planning permission lapsed on 3.11.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with slightly different site layout and development parameters.
- 1.3 According to the applicant, the proposal is for storage of packed furniture. No workshop activities (including cutting and treatment of furniture) will be carried out at the Site. No heavy goods vehicle, including container tractors/trailers, are allowed to access the Site. Plans showing the vehicular access leading to the Site,

site layout and landscape and tree preservation proposal submitted by the applicant are at **Drawings A-1 to A-3** 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/923 (a)	Current Application No. A/YL-TYST/1122 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Furniture for a Period of 3 Years		---
Site Area	About 1,891 m ²		---
Total Floor Area (Non-domestic)	About 1,264 m ²	About 1,341 m ²	+ 77m ² (+6.1%)
No. and Height of Structures	2 • for warehouse and canopy for storage and L/UL (7.5m, 1 storey)		---
No. of Parking Spaces	Nil		---
No. of Loading/Unloading (L/UL) Space(s)	2 (3.5m x 11m each) (for medium goods vehicles)		---
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 with plans received on 12.10.2021 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and Supplementary Planning Statement (**Appendices I and Ia**). They can be summarised as follows:

- (a) The proposal is in line with the planning intention of the “U” zone. The Site falls within Stage 3 works of the Yuen Long South (YLS) Development, whereby the detailed implementation programme is still being formulated. The temporary warehouse use would not frustrate the future development of the area.
- (b) Similar warehouse uses have been approved by the Board in the vicinity of the Site. The nature and scale of the proposal is compatible with the surrounding environment.
- (c) All approval conditions of the previous planning application No. A/YL-TYST/923 had been complied with. The layout of the current proposal is generally the same as the previous application except for a minor change in the covered area for more L/UL space under the canopy.

- (d) There will be minimal environmental, visual, drainage or traffic 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 notices and sending the notices 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 Applications

- 5.1 The Site involves five approved previous applications (No. A/YL-TYST/391, 534, 605, 749 and 923) and four rejected previous applications (No. A/YL-TYST/173, 216, 319 and 354) for various temporary uses covering different extents of the Site, which were all submitted by the same applicant as the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

Rejected Applications (4 Cases)

- 5.2 Applications No. A/YL-TYST/173, 216, 319 and 354 for temporary open storage of vehicles/vehicle parts or vehicle repair workshop uses each for a period of 3 years covering different extents of the Site (with applications No. A/YL-TYST/173, 216 and 319 straddling the adjacent “Village Type Development” (“V”) zone) were rejected by the Board on review or by the Committee between 2002 and 2007 mainly on the considerations that there were adverse environmental, traffic and/or drainage impacts on the surrounding areas, amongst others.

Approved Applications (5 Cases)

- 5.3 Applications No. A/YL-TYST/391, 534, 605, 749 and 923 for various temporary warehouse use on the same site as the current application were approved with conditions by the Committee between 2008 and 2018 each for a period of 3 years. The applications were approved mainly on the considerations that the proposals were generally not incompatible with the surrounding areas; the proposals would not frustrate the long-term development of the area; and departmental concerns could be addressed by imposing approval conditions. However, the planning permissions for applications No. A/YL-TYST/391 and 534 were subsequently revoked in 2011 and 2012 respectively due to non-compliance with approval conditions.
- 5.4 Compared with the last application (No. A/YL-TYST/923), the current application is submitted by the same applicant for the same use on the same site with slightly different site layout and development parameters.

6. Similar Applications

- 6.1 A total of 73 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 2017. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Out of the 73 similar applications, 69 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 18 of them were subsequently revoked due to non-compliance with approval conditions.
- 6.3 The remaining four applications (No. A/YL-TYST/922, 926, 943 and 1082) were rejected by the Committee between 2018 and 2021 on the grounds that approval of application 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. Planning Intention

- 7.1 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. Any proposed developments within the zone should demonstrate that they will not have significant traffic, drainage and environmental impacts on the area.
- 7.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in 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.

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 Kung Um Road to its east (**Plan A-3**); and
 - (b) paved and occupied by the applied use without valid planning permission (**Plans A-4a** and **A-4b**).
- 8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
 - (a) comprise predominately warehouses and open storage/storage yards with scattered residential structures, recycling workshop, car servicing, shrubland and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one located to the immediate northwest;

- (c) the cluster of village houses in Pak Sha Tsuen is located to its south within the adjacent “V” zone, while to its further southwest is an area zoned “Residential (Group C)” on the OZP; and
- (d) except for three warehouses or open storage yards with/without ancillary use operating with valid planning permissions (No. A/YL-TYST/1003, 1054 and 1081), the remaining warehouses and car servicing in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

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 Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) Within the Site, Lots No. 1547 and 1548 in D.D. 119 are covered by Short Term Waivers (STWs) No. STW 3524 and 3525 respectively to permit structures erected thereon for the purpose of “Warehouse for storage”.
 - (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/run-in/out 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 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.

9.1.3 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) The access road connecting the Site with Kung Um Road is not and will not be maintained by his department. 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) She does not support the application as there are residential uses in the vicinity (with the nearest one located to its immediate northwest) (**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 Aspect of Temporary Uses and Open Storage Use” (Code of Practice) to minimise any potential environmental nuisances.

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.
- (b) Based on the planning statement enclosed in the application (**Appendix Ia**), apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/923.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/923 and the submission of records of the existing drainage facilities on site 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 partly within an area zoned “Other Specified Uses (Mixed Uses)” (“OU(MU)”) and “Local Open Space” (“LO”) and partly 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 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 subject 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):

His office has not received any comment from the locals.

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

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

10. Public Comment Received During the Statutory Publication Period

On 22.10.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual 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 at the Site zoned “U” on the OZP. The applied use is generally 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 partly within an area zoned “OU(MU)” and “LO”, and partly within an area shown as ‘Road’ on the Revised RODP of YLS and within Stage 3 of YLS Development, CE/CID, PlanD and PM(W), CEDD have 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 warehouses and open storage/ storage yards (**Plan A-2**). While there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding uses in the area.
- 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 to its immediate northwest) (**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 five previous approvals for temporary warehouse use have been granted to the Site and 69 similar applications within/straddling the subject “U” zone have been approved since 2017, approval of the current application is generally in line with the Committee’s previous decisions. There were four previous applications rejected mainly on the grounds that there were potential adverse environmental, traffic and/or drainage impacts on the surrounding areas. However, these rejected applications were for different uses (i.e. open storage or vehicle repair workshop) and the considerations thereof are generally not applicable to the current application. There were also four similar applications in the subject “U” zone rejected on the grounds that approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses. However, such considerations are also not entirely applicable to the current application as all approval conditions imposed on the last application (No. A/YL-TYST/923) had been complied with by the same applicant.
- 11.5 There is one public comment objecting to the application as summarised in paragraph 10 above. 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 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the applied use could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permissions shall be valid on a temporary basis for a period of 3 years until 10.12.2024. 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 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (e) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.3.2022;
- (f) 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 10.6.2022;
- (g) in relation to (f) 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 10.9.2022;
- (h) if any of the above planning condition (a), (b), (c) or (d) 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
- (i) if any of the above planning condition (e), (f) or (g) 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 area.

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 plans received on 12.10.2021
- Appendix Ia** Supplementary Planning Statement
- Appendix II** Previous Applications covering the Site

Appendix III	Similar Applications within/straddling the “U” Zone on the OZP since 2017
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clause
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape and Tree Preservation Plan
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
DECEMBER 2021**