

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1125

- Applicant** : Mr. Tsui Yat Wah represented by Ever United Planning and Development Limited
- Site** : Lots 1532 (Part), 1533 S.A, 1533 S.B, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543 and 1544 (Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 9,110 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
- Zoning** : “Undetermined” (“U”)
- Application** : Proposed Temporary Warehouse for Storage of Electronic Goods for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of electronic goods for a period of 3 years (**Plan A-1a**). According to the covering Notes of the OZP, all uses or development within the “U” zone except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 to A-4**).
- 1.2 The Site involves ten previous applications for various temporary uses (**Plan A-1b**). The last application (No. A/YL-TYST/1003) for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 26.5.2020. All the approval conditions of the planning permission have been complied with and the planning permission is valid until 26.5.2023. Compared with the last application, the current application is submitted by a different applicant for a different use at a smaller site with different site layout and development parameters.

- 1.3 According to the applicant, the proposal is for storage of electronic goods. No cutting, dismantling, cleansing, tyre/vehicle/container repairing, compaction and workshop activity will be carried at the Site. Plans showing the vehicular access leading to the Site, site layout, landscape and tree preservation proposal and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** 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/1003 (a)	Current Application No. A/YL-TYST/1125 (b)	Difference (b)-(a)
Applied/Proposed Use	Temporary Open Storage of Construction Machinery and Materials, Recycling Materials and Used Electrical Appliances with Ancillary Workshop for a Period of 3 Years	Proposed Temporary Warehouse for Storage of Electronic Goods for a Period of 3 Years	Change of Use
Site Area	About 50,500 m ²	About 9,110 m ²	-41,390 m ² (-82%)
Total Floor Area (Non-domestic)	About 6,055.65 m ²	About 5,409 m ²	-646.65 m ² (-10.7%)
No. and Height of Structures	51 • for ancillary workshop, office and shelter (2.6-8m, 1-2 storey(s))	8 • for warehouses, site offices, toilets, fire service water tank and pump room (2.5-12m, 1 storey)	-43 (-84.3%)
No. of Parking Spaces	Nil		---
No. of Loading/Unloading Space(s)	31 (3.5m x 16m each) (for medium/HGVs and container vehicles, or smaller vehicles)	2 (3.5m x 11m each) (for medium/heavy goods vehicles)	-29 (-93.5%)
Operation Hours	7:00 a.m. to 7:00 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 Supplementary Planning Statement received on 28.10.2021 **(Appendix I)**
 - (b) Further Information (FI) received on 7.12.2021 **(Appendix Ia)**

2. Justifications from the Applicant

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

- (a) The proposal is in line with the planning intention of the “U” zone. The temporary warehouse use would not frustrate the future development of the area. A number of warehouses and open storage yards have been approved by the Board in the vicinity and their planning circumstances are similar to that of the Site. The proposal is compatible with the surrounding environment.
- (b) The Site has been the subject of previous planning permissions for open storage use since 1998. Due to change of economic needs, the applicant would like to apply for a new planning permission for warehouse use. Compared to the previous open storage use, the current proposal is more static and environmental friendly as all activities are sheltered by structures. The proposal is in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”. Besides, there is a shortage of land for open storage use in TYST area.
- (c) The proposal will comply with the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) and various mitigation measures are proposed to minimise the environmental impact to the surrounding area. The existing periphery fencing and dense peripheral planting along the site boundary is for screening purpose.
- (d) There will be minimal environmental, visual, drainage or traffic impacts arising from the proposed 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 publishing notices in local newspapers. 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 nine approved previous applications (No. A/YL-TYST/27, 153, 265, 355, 370, 519, 665, 827 and 1003) and one rejected previous application (No. A/YL-TYST/141) for various temporary (except for application No. A/YL-TYST/27) uses covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

Rejected Application (1 Case)

- 5.2 Application No. A/YL-TYST/141 for temporary open storage of construction machinery and materials for a period of 3 years was rejected by the Board on review in 2001 mainly on the considerations that there were adverse environmental and drainage impacts on the surrounding areas.

Approved Applications (9 Cases)

- 5.3 Applications No. A/YL-TYST/27, 153, 265, 355, 370, 519, 665 and 827 for various permanent or temporary open storage uses covering different extents of the Site were approved with conditions by the Committee between 1998 and 2017 each for a temporary period of 2 or 3 years. The applications were approved mainly on the considerations that the proposal was generally in line with the then TPB PG-No. 13 (or its later version); the development was not incompatible with the surrounding uses in the subject “U” zone; approval of the application on a temporary basis would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions.
- 5.4 The last application (A/YL-TYST/1003) for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop covering a much larger site was approved with conditions for a period of 3 years by the Committee on 26.5.2020 mainly on similar considerations as those specified in paragraph 5.3 above. All the approval conditions had been complied with and the planning permission is valid until 26.5.2023.
- 5.5 Compared with the last application (No. A/YL-TYST/1003), the current application is submitted by a different applicant for a different use at a smaller site with different site layout and development parameters.

6. Similar Applications

- 6.1 A total of 75 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 75 similar applications, 71 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 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.

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

- 8.1 The Site is:
- (a) accessible via a local track leading from Kung Um Road to its east (**Plan A-3**); and
 - (b) fenced off, partly paved and currently vacant (**Plan A-4**).
- 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, parking of vehicles, car repairing workshop, orchard and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one located to the immediate southwest;
 - (c) to the north and further north are areas shown as ‘Road’ and zoned “Government, Institution or Community (1)” on the OZP; and
 - (d) except for three warehouses or open storage yards with ancillary use operating with valid planning permissions (No. A/YL-TYST/1003, 1030, 1054 and 1081), the remaining warehouses, open storage/storage yards, parking of vehicles and car repairing workshop 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 comments, where relevant, are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises 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) The Site is covered by several Short Term Waivers (STWs). For details, please refer to **Appendix V**.
- (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 and 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 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

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 southwest)

(**Plan A-2**) and the proposed 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.

Drainage

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

- (a) She has no objection in principle to the proposed development from the public drainage point of view. The applicant should be reminded of the detailed comments on the submitted drainage proposal and other general comments at **Appendix V**.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring submission of a revised drainage proposal, and 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**.

Water Supply

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

Long-Term Development

9.1.9 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 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 “Residential – Zone 2 (with Commercial)” (“R2c”), partly within an area zoned “Other Specified Uses (Mixed Uses)” (“OU(MU)”) 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.

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

- (a) He has no objection to the application.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the Site falls within the boundary of the proposed YLS Development – Stage 3. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 3 is being formulated.

District Officer’s Comments

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

10. Public Comments Received During the Statutory Publication Period

On 5.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One individual objects to the application on the grounds that the proposed use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix IV-1**). Another individual raises concerns on the progress of compliance of the approval conditions for the last planning permission covering the Site (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of electronic goods at the Site zoned “U” on the OZP. The proposed 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 which cannot be accommodated in conventional godown premises 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 “R2c” and “OU(MU)”, 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 area comprises predominantly warehouses and open storage/storage yards (**Plan A-2**). While there are residential structures in the vicinity, the proposed 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 southwest) (**Plan A-2**), and the proposed use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there was 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 nine previous approvals for storage uses have been granted to the Site and 71 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 was one previous application rejected mainly on the grounds that there were potential adverse environmental and drainage impacts on the surrounding areas. However, the considerations thereof are generally not applicable to the current application as the rejected application was for a different use (i.e. open storage). 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 applicable to the current application as all the approval conditions imposed on the last application (No. A/YL-TYST/1003) had been complied with.
- 11.5 There are two public comments objecting to/raising concerns on 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 comments mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary warehouse for storage of electronic goods 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 24.12.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 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) the submission of a revised 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 24.6.2022;
- (d) in relation to (c) above, the implementation of the revised 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 24.9.2022;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (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 24.6.2022;

- (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 24.9.2022;
- (h) if any of the above planning condition (a), (b) or (e) 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 (c), (d), (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 proposed 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 Supplementary Planning Statement received on 28.10.2021
Appendix Ia	FI received on 7.12.2021
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within/straddling the "U" Zone on the OZP since 2017
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan

Drawing A-2	Site Layout Plan
Drawing A-3	Landscape and Tree Preservation Plan
Drawing A-4	Proposed Drainage 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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**