

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1130

- Applicant** : Forest Development and Construction Company Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 1516, 1517 (Part) and 1518 in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 1,588 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
- Zonings** : “Residential (Group A)3” (“R(A)3”) (about 45.8%);
[restricted to a maximum plot ratio of 7 and maximum building height of 160mPD]
- “Government, Institution or Community (1)” (“G/IC(1)”) (about 21.1%); and
[restricted to a maximum building height of 8 storeys]
- area shown as ‘Road’ (about 33.1%)
- Application** : Proposed Temporary Warehouse for Storage of Construction Machinery and Construction 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 proposed temporary warehouse for storage of construction machinery and construction materials for a period of 3 years (**Plan A-1**). The Site mainly falls within an area zoned “R(A)3” (about 45.8%) and partly within an area zoned “G/IC(1)” (about 21.1%) and shown as ‘Road’ (about 33.1%) on the OZP. Although the proposed use is neither a Column 1 or 2 use in the “R(A)” and “G/IC” zones, according to the covering 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 covering Notes of the OZP also states that all uses or developments within areas shown as ‘Road’ require planning permission from the Board. The Site is currently occupied by

largely vacant structures (**Plans A-2 to A-4b**). There is no previous application covering the Site.

- 1.2 According to the applicant, the proposal is for storage of construction machinery (including electric generator) and construction materials (including barricades, handy tools, bricks, pipes and tiles, etc.). No open storage will be carried out at the Site. No medium or heavy goods vehicles, including container trailers/tractors, will enter the Site. Plans showing the vehicular access leading to the Site, site layout and drainage proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	About 1,558 m ²
Total Floor Area (Non-domestic)	About 514 m ²
No. and Height of Structures	5 • for warehouses, site office, toilet and electricity meter room (3-6.5m, 1 storey)
No. of Parking Spaces	Nil
No. of Loading/Unloading Space(s)	1 (7m x 3m) (for light goods vehicles)
Operation Hours	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annexes and plans received on 17.11.2021 (**Appendix I**)
- (b) Further Information (FI) received on 21.12.2021 (**Appendix Ia**)

2. Justifications from the Applicant

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

- (a) The temporary use would not jeopardise the long-term planning intention. A number of open storage yards, warehouses and port back-up uses have been approved by the Board in the vicinity of the Site and within the same zoning, their planning circumstances are similar to that of the Site. The proposal is compatible with the surrounding environment.
- (b) The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” is not applicable to the current application as the proposal is for warehouse use and no open storage use will be carried out at the Site. Similar warehouse use has been approved in the Ha Tsuen Area.
- (c) There will be minimal environmental, 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 sending notices to Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to planning enforcement action.

5. **Previous Application**

The Site is not involved in any previous application.

6. **Similar Applications**

- 6.1 There are nine similar applications for various temporary warehouse uses within/straddling the subject “R(A)3” and “G/IC(1)” zones considered by the Rural and New Town Planning Committee (the Committee) of the Board since 2017¹. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.
- 6.2 All nine applications 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 three of them were subsequently revoked due to non-compliance with approval conditions.

7. **Planning Intentions**

- 7.1 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.
- 7.2 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community (GIC) facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

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

8. The Site and Its Surrounding Areas (Plans A-1 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) fenced off, paved and occupied by largely vacant structures (**Plans A-4a to 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, parking of vehicles, vehicle workshop, orchards, plant nursery, a residential care home for persons with disabilities (RCHD), shrubland, pond and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located 30m to its northeast; and
- (c) except for three warehouses or open storage yards with ancillary use operating with valid planning permissions (No. A/YL-TYST/990, 1003 and 1081), the remaining warehouses, open storage/storage yards, parking of vehicles, RCHD and vehicle 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) Should planning approval be given to the application, the lot owner(s) 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):

The applicant should be reminded of the detailed comments at **Appendix IV**.

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):

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) 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 IV**.
- (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 IV**.

Building Matters

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

The applicant should be reminded of the detailed comments at **Appendix IV**.

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 “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (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 “Special Residential – Zone 1 – Public Rental Housing (with Commercial)” (“RS(1)c”), partly within two areas zoned “Government” (“G”), minor portion within an area zoned “Residential – Zone 1 – (Subsidised Sale Flats with Commercial)” (“RS(1)c”) 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 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

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 Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 26.11.2021, 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 III-1**). Another individual opines that the applicant had not provided sufficient justification and that approval of the proposed use would hinder the long-term development plans of the area (**Appendix III-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of construction machinery and construction materials at the Site mainly zoned “R(A)3” and partly zoned “G/IC(1)” and shown as ‘Road’ on the OZP. The planning intentions of the “R(A)” and “G/IC” zones are primarily for high-density residential developments and provision of GIC facilities respectively. Although the proposed use is not in line with the aforesaid planning intentions, and the Site falls within YLS Development Stage 2 Phase 2, CE/CID, PlanD does not raise objection and PM(W), CEDD has no objection to the application. As such, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 While there are scattered and isolated residential structures in the vicinity, the proposed use is generally not incompatible with the predominant warehouses and open storage/ storage yard uses currently existing in the area (**Plan A-2**).
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP, D of FS and CE/MN, DSD. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of 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 be advised to follow the relevant environmental mitigation measures in the

latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.

- 11.4 There is no previous application concerning the Site. Given that nine similar applications within/straddling the subject “R(A)3” and “G/IC(1)” zones have been approved since 2017, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 There are two public comments objecting to/providing comments 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 construction machinery and construction materials 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 14.1.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no medium or heavy goods vehicle, including container tractor/trailer, as defined in the Road Traffic Ordinance, is allowed to enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (b) 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 14.7.2022;
- (c) in relation to (b) 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 14.10.2022;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) 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 14.7.2022;
- (f) in relation to (e) 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 14.10.2022;

- (g) if any of the above planning condition (a) 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
- (h) if any of the above planning condition (b), (c), (e) or (f) 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 IV**.

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

the proposed use is not in line with the planning intentions of the "R(A)" and "G/IC" zones which are primarily for high-density residential developments and the provision of Government, institution or community facilities respectively. No strong planning justification has been given in the submission to justify a departure from the planning intentions, even on a temporary basis.

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 annexes and plans received on 17.11.2021
- Appendix Ia** FI received on 21.12.2021
- Appendix II** Similar Applications within/straddling the subject "R(A)3" and "G/IC(1)" Zones on the OZP since 2017
- Appendices III-1 and III-2** Public Comments received during the Statutory Publication Period
- Appendix IV** Recommended Advisory Clauses
- Drawing A-1** Vehicular Access Plan
- Drawing A-2** Site Layout Plan
- Drawing A-3** Proposed Drainage Plan
- Plan A-1** Location Plan with Similar Applications

Plan A-2 Site Plan
Plan A-3 Aerial Photo
Plans A-4a to A-4b Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**