

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1131

- Applicant** : Ching Wo Company represented by Metro Planning & Development Company Limited
- Site** : Lots 1493 S.A (Part), 1494 S.A (Part) and 1494 RP (Part) in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 678 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** : “Open Space” (“O”)
- 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 for proposed temporary warehouse for storage of construction machinery and construction materials for a period of 3 years at the application site (the Site) (**Plan A-1**). Although the proposed use is neither a Column 1 or 2 use in the “O” zone, 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 Site is currently occupied by vacant structures (**Plans A-2 and A-4**).
- 1.2 The Site involves three previous applications for various warehouse use (**Plan A-1**). The last application (No. A/YL-TYST/986) for temporary warehouse for storage of household products and electronic goods was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 1.11.2019. Except for the approval condition regarding implementation of drainage proposal, all the time-limited approval conditions have been complied with and the permission will lapse on 2.11.2022. Compared with the last application, the current application is submitted by the same applicant for similar warehouse use (with different stored items) at the same

site with the same site layout and development parameters.

- 1.3 The Site is accessible from Kung Um Road (**Plan A-2**). According to the applicant, the proposed use is for storage of construction machinery (including miniature excavators and electric generators) and construction materials (including barricades and bricks). No medium or heavy goods vehicles, including container tractors/trailers, are allowed to access the Site. No open storage activity will be carried out at the Site. Plans showing the vehicular access leading to the Site, site layout, proposed drainage facilities and fire service installations (FSIs) 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/986 (a)	Current Application No. A/YL-TYST/1131 (b)	Difference (b)-(a)
Applied/ Proposed Use	Temporary Warehouse for Storage of Household Products and Electronic Goods for a Period of 3 Years	Proposed Temporary Warehouse for Storage of Construction Machinery and Construction Materials for a Period of 3 Years	Change in Stored Items
Site Area	About 678 m ²		---
Total Floor Area (Non-domestic)	About 299.1 m ²		---
No. and Height of Structures	5 • for warehouses, pump room, meter room and water tank (not more than 5.5m, 1 storey)		---
No. of Loading/ Unloading Space(s)	1 (for medium goods vehicle) (11m x 3.5m)	1 (for light goods vehicle) (7m x 3m)	Change in Vehicle Type
No. of Parking Space(s)	---		---
Operation Hours	9:00 a.m. to 6:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays	Shorter Operation Hours

- 1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with annexes and plans received on 19.11.2021 (**Appendix I**)
- (b) Further Information (FI) received on 27.1.2022 (**Appendix Ia**)
[exempted from publication and recounting requirements]

- 1.6 On 14.1.2022, the Committee of the Board decided to defer making a decision on the application for two months as requested by the applicant. FI has since been received and the application is scheduled for consideration by the Committee at this meeting.

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 Site is the subject of a previous planning permission for warehouse use. The proposed use will be accommodated in the existing structures and does not involve the erection of new structures. A fresh application is submitted as there is a change in stored items.
- (b) The temporary proposal would not jeopardise the long-term planning intention. Similar warehouse uses have been approved by the Board in the vicinity of the Site and their planning circumstances are similar to that of the Site. The proposal is not incompatible with the surrounding environment.
- (c) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending the notice to the 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 three approved previous applications (No. A/YL-TYST/800, 938 and 986) for various temporary warehouse uses at the same Site¹. All three applications, submitted by the same applicant as the current application, were approved with conditions by the Committee between 2016 and 2019 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; approval of the applications on a temporary basis 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/800 and 938 were subsequently revoked in 2018 and 2019 respectively due to non-compliance with approval conditions on implementation of drainage proposal and submission and implementation of FSIs proposal. For the planning permission for application No. A/YL-TYST/986,

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

except for the approval condition regarding implementation of drainage proposal, all the time-limited approval conditions have been complied with and the permission will lapse on 2.11.2022. Details of the applications are summarised in **Appendix II** and the boundary of the sites is shown on **Plan A-1**.

- 5.2 Compared with the last application (No. A/YL-TYST/986), the current application is submitted by the same applicant for similar warehouse use (with different stored items) at the same site with the same site layout and development parameters.

6. Similar Applications

There are seven similar applications for various temporary warehouse uses within/straddling the subject “O” zone considered by the Committee since 2017. All seven applications were approved 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 two of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Kung Um Road to its east via a local track (**Plan A-2**); and
- (b) paved, fenced off and occupied by vacant structures (**Plan A-4**).

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

- (a) comprise predominately warehouses, open storage/storage yards and vehicle repair workshops, with scattered residential structures, parking of vehicles, chicken sheds, a residential care home for persons with disabilities, agricultural land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest residence located about 35m to the southeast;
- (c) to the north and south of the Site are areas zoned “Government, Institution or Community (2)” and “Residential (Group A)3” (“R(A)3”) respectively on the OZP. To the further southwest, west and north are areas zoned “R(A)3” and “O” respectively on the OZP; and
- (d) except for seven warehouses operating with valid planning permissions (No. A/YL-TYST/988, 990, 991, 1037, 1040, 1055 and 1068), as well as another warehouse and a vehicle repair workshop, the other warehouses, open storage/storage yards, parking of vehicles, vehicle repair workshops and chicken sheds in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

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. 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) Within the Site, Lots 1493 S.A & 1494 S.A and 1494 RP in D.D. 119 are covered by Short Term Waivers (STW) No. 4896 and 4899 respectively permitting structures erected thereon for the purpose of “Temporary Warehouse for Storage of Household Products”.
- (c) Should planning approval be given to the subject planning 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):

The local track leading to the Site is not under her purview. The applicant should be reminded of the detailed comments at **Appendix V**.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

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

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 Aspects of Temporary Uses and Open Storage Use” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

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 from the public drainage point of view and no adverse comment on the submitted drainage proposal.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the implementation and maintenance of the agreed drainage proposal to the satisfaction of the Director of Drainage Services or of the Board should be stipulated. The applicant should also be reminded of the detailed comments at **Appendix V**.

Fire Safety

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

He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction; and the submitted FSIs proposal (**Drawing A-4**) is also considered acceptable. Should the application be approved, the applicant should be advised 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**.

Open Space

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

- (a) He has no in-principle objection to the proposal.
- (b) 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 Site into public open space at present.

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 “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan of YLS promulgated in May 2020, the Site falls within an area zoned “District Open Space” (“DO”).
- (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) 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

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comments from the locals.

9.2 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).

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 IV-1**). Another individual opines that the approval conditions of the previous planning permission had yet to be complied with (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of construction machinery and construction materials for a period of 3 years at the Site zoned “O” on the OZP. The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space. Although the proposed use is not in line with the aforesaid planning intention and the Site falls within YLS Development Stage 2 Phase 2, DLCS has no in-principle objection to the application 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 The surrounding area comprises predominantly warehouses, vehicle repair workshops and open storage/storage yards (**Plan A-2**). Although there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.
- 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 The Site involves three previous applications (No. A/YL-TYST/800, 938 and 986) for similar warehouse uses, which were all approved with conditions each for a period of 3 years by the Committee between 2016 and 2019. However, the planning permissions for applications No. A/YL-TYST/800 and 938 were subsequently revoked in 2018 and 2019 respectively due to non-compliance with time-limited approval conditions. For the planning permission for application No. A/YL-TYST/986, the time-limited approval condition concerning implementation of drainage proposal has yet to be complied with. The current application is submitted by the same applicant as the three previous applications with the same

site layout and development parameters. Nevertheless, the applicant has submitted drainage and FSIs proposals for the current application (**Drawings A-3 and A-4**), which were considered acceptable by CE/MN, DSD and D of FS respectively. As such, sympathetic consideration may be given to the current application. Should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would unlikely be given to any further application.

- 11.5 Given that three previous approvals for similar warehouse use have been granted to the Site and seven similar applications within/straddling the subject "O" zone have been approved since 2017, approval of the current application is generally in line with the Committee's previous decisions.
- 11.6 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 11.5 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments summarised 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 permission shall be valid on a temporary basis for a period of 3 years until 18.3.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implementation of the accepted drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.9.2022;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all time during the planning approval period;
- (c) the implementation of the accepted 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 18.9.2022;
- (d) if the above planning condition (b) 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
- (e) if any of the above planning condition (a) or (c) 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 proposed use is not in line with the planning intention of the "O" zone which is primarily for provision of outdoor open-air public space. No strong planning justification has been given in the submission to justify a departure from the planning intention, 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 with annexes and plans received on 19.11.2021
Appendix Ia	FI received on 27.1.2022
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within/straddling the Subject "O" 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	Drainage Proposal
Drawing A-4	FSIs Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2022**