

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

APPLICATION NO. A/YL-TYST/1137

- Applicant** : Mr To Jarm Chuen represented by Metro Planning & Development Company Limited
- Site** : Lots 1062 (Part), 1125 (Part), 1127 (Part) and 1128 (Part) in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 523 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** : Renewal of Planning Approval for Temporary Warehouse and Open Storage for Storage of Homeware for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary warehouse and open storage for storage of homeware for a period of 3 years (**Plan A-1**). 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 occupied by the applied use with valid planning permission under application No. A/YL-TYST/945 (**Plans A-2 to A-4b**).
- 1.2 The Site involves three previous applications for similar open storage with/without warehouse uses at the same site as the current application (**Plan A-1**). The last application (No. A/YL-TYST/945) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 8.3.2019. All the time-limited approval conditions of the planning permission had been complied with and the planning permission is valid until 8.3.2022. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters albeit with shorter operation hours.

- 1.3 According to the applicant, no repairing, dismantling, cleansing or other workshop activities will be carried out within the Site. No light, medium or heavy goods vehicles, including container tractors/trailers, are allowed to access the Site. Plans showing the vehicular access, site layout, as-built drainage plan and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1** and **A-4** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL-TYST/945 albeit with shorter operation hours and are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/945	Current Application No. A/YL-TYST/1137
Applied Use	Temporary Warehouse and Open Storage for Storage of Homeware for a Period of 3 Years	
Site Area	About 523 m ²	
Total Floor Area (Non-domestic)	About 228 m ²	
No. and Height of Structure	1 • for warehouse and site office (6.5m, 1 storey)	
No. of Loading/ Unloading Space(s)	1 (for light van) (5m x 2.5m)	
No. of Parking Space(s)	---	
Operation Hours	7:00 a.m. to 7:00 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

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annex and plans received on 9.12.2021 (**Appendix I**)
 - (b) Supplementary Information received on 15.12.2021 (**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 Site is the subject of three previous planning permissions. The current proposal is the same as the last application (No. A/YL-TYST/945) and all the approval conditions of the last application had been complied with.
- (b) The proposal is in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13F).
- (c) The temporary use would not jeopardise the long-term planning intention. A number of open storage and port back-up 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 compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in TYST.

- (d) There will be no adverse 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. Town Planning Board Guidelines

- 4.1 TPB PG-No.13F are relevant to the application. The Site falls within Category 1 areas under TPB PG-No.13F promulgated by the Board on 27.3.2020. The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are also relevant to the application. The relevant assessment criteria are at **Appendix III**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves three approved previous applications (No. A/YL-TYST/632, 781 and 945) for open storage with/without warehouse uses at the same site. All three applications were approved with conditions each for a period of 3 years by the Committee between 2013 and 2019, mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13E; approval of the application on a temporary basis would not frustrate the long-term development of the area; the proposals were not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. For the planning permission under application No. A/YL-TYST/945, all the time-limited approval conditions had been complied with and the planning permission is valid until 8.3.2022. Details of the applications are summarised in **Appendix IV** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Compared with the last application (No. A/YL-TYST/945), the current application is submitted by the same applicant for the same use at the same site with the same site layout and development parameters albeit with shorter operation hours.

7. Similar Applications

- 7.1 There are 91 similar applications for various temporary open storage and/or warehouse uses with/without other uses within/straddling the “U” zone considered by the Committee since 2017. Details of the applications are summarised in **Appendix V** and the locations of the sites are shown on **Plan A-1**.
- 7.2 Out of the 91 similar applications, 87 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 22 of them were subsequently revoked due to non-compliance with approval conditions.
- 7.3 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.
- 7.4 For Members’ information, applications No. A/YL-TYST/1138 (for temporary warehouse for storage of non-staple food for a period of 3 years) and 1140 (for renewal of temporary warehouse and open storage of exhibition materials and construction materials with ancillary office for a period of 3 years) within the same “U” zone will also be considered at this meeting (**Plan A-1**).

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

- 8.1 The Site is:
 - (a) accessible from Kung Um Road to its east via a local track (**Plan A-3**);
 - (b) paved and fenced off; and
 - (c) occupied by the applied use with valid planning permission under application No. A/YL-TYST/945 (**Plans A-4a** and **A-4b**).
- 8.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
 - (a) comprise predominately open storage/storage yards and warehouses with scattered residential structures, a club house for motor cars, vehicle repair workshops, parking of vehicles and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest residence located to its immediate west; and
 - (c) except for two warehouses and three open storage/storage yards with valid planning permissions (No. A/YL-TYST/955, 964, 983, 1041 and 1048), the other warehouses, open storage/storage yards, club house and vehicle repair workshops in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

- 9.1 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.
- 9.2 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.

10. Comments from Relevant Government Departments

- 10.1 The following government departments have been consulted and their views on the application and public comment, where relevant, are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 1127 in D.D. 119 is covered by Short Term Waiver (STW) No. 4054 to permit structures erected thereon for the purpose of “Temporary Open Storage of Construction Materials and Ceramic Ware”.
- (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 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 to regularise any 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

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The local track leading to the Site is not under her preview. The applicant shall obtain consent of the owner(s)/managing parties of the local track for using it as the vehicular access to the Site.
- (b) The applicant should be reminded of the detailed comments at **Appendix VII**.

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

- (a) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (b) The access road connecting the Site with Kung Um Road is not and will not be maintained by his office. His office shall not be responsible for maintaining any access connecting the Site with Kung Um Road.

Environment

10.1.4 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 Sites” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

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

- (a) He has no objection in principle to the proposed development.
- (b) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/945.
- (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/945 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

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

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

Building Matters

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

- (a) As there is no record of approval 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 VII**.

Long-Term Development

10.1.8 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 within an area zoned “Other Specified Uses (Hillside River Corridor with Scenic Cycle Track)” (“OU(HRCSCT”).
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

10.1.9 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

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

His office has not received any comment from the locals.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (b) Commissioner of Police (C of P).

11. Public Comment Received During the Statutory Publication Period

On 17.12.2021, 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 VI**).

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning approval for temporary warehouse and open storage for storage of homeware at the Site zoned "U" on the OZP. 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 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. Under the Revised RODP of YLS, the Site falls within an area zoned "OU(HRCSCT)" 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.

12.2 The surrounding area comprises predominantly open storage/storage yards and warehouses (**Plan A-2**). Although there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding uses.

12.3 According to TPB PG-No. 13F, the Site falls within Category 1 areas. The following guidelines are relevant:

Category 1 areas are considered suitable for open storage and port back-up uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.4 The application with proposed open storage use is generally in line with TPB PG-No. 13F in that the Site falls within Category 1 areas which are considered suitable

for open storage and port back-up use; and local concerns and technical requirements of relevant government departments could be addressed through the implementation of approval conditions.

- 12.5 The application is also generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstance since the previous approval was granted; approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the last application No. A/YL-TYST/945 had been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.6 There is no adverse comment 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 13.2 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 and to keep the Site clean and tidy at all times.
- 12.7 Given that three previous approvals for similar storage uses have been granted to the Site and 87 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.
- 12.8 There is one public comment objecting to the application received as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.7 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment summarised in paragraph 11 above, the Planning Department considers that the temporary warehouse and open storage for storage of homeware could be tolerated for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years and be renewed from 9.3.2022 to 8.3.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;

- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.6.2022;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) if any of the above planning condition (a), (b) 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
- (f) if the above planning condition (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.

[Approval conditions (a), (b) and (c) are the same as those under the permission for application No. A/YL-TYST/945, condition (d) has been updated as per the current application, restrictions on operation hours, specific activities/stored items, vehicle types and landscape condition have been removed as per the department's latest requirement, while restriction on queuing and reverse movement of vehicles is now stipulated as an advisory clause.]

Advisory clauses

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

13.3 There is no strong reason to recommend rejection of the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I Application Form with annex and plans received on 9.12.2021

Appendix Ia	Supplementary Information received on 15.12.2021
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Relevant Extracts of TPB PG-No. 34D
Appendix IV	Previous Applications covering the Site
Appendix V	Similar Applications within/straddling the Subject “U” Zone on the OZP Since 2017
Appendix VI	Public Comment received during the Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	FSIs Proposal
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**